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**Language provision in Scottish public services:
inclusion in policy and in practice**

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Declaration

I declare that this thesis was composed by myself, that the work contained herein is my own except where explicitly stated otherwise in the text, and that this work has not been submitted for any other degree or professional qualification except as specified.

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Abstract

Increased international mobility has resulted in language planning initiatives by a range of different actors in Scotland, in order to respond to the growing linguistic diversity of the population and to promote greater equality of access to public services. The ways in which public service providers accommodate language needs among service users offer valuable insight into equalities issues at the local level and into the interplay between policy and practice. Following an analysis of the international, UK and Scottish legal and policy instruments that comprise the equalities framework within which Scottish public bodies operate, this thesis evaluates local, language-related strategies and practices in selected public sector organisations which provide particularly important services to the public.

Language support, primarily in the form of interpretation and translation, allows public sector service providers to accommodate the language needs of service users. This thesis evaluates such provision in core Scottish public services, through the analysis of strategy and guidance documents and public information with regard to multilingual provision, and a series of semi-structured interviews that were conducted in Edinburgh and Glasgow with service providers from NHS Boards, local authorities (with a separate focus on education) and the criminal justice system. The extent to which these policies and practices respond to the international, UK and Scotland-wide legal and policy frameworks is also evaluated.

Although it is addressed more explicitly in international law and in some domestic legislation and policy, the position of language in the framework of UK equalities law is to some extent ambiguous. This research found, however, that public service providers deem multilingual provision to be important to their efforts to meet equalities obligations, as they appear to perceive language support as a responsibility under equalities legislation. While this inclusive interpretation of the law was a relatively consistent approach in both Edinburgh and Glasgow, and there was also evidence of good practice and of efforts to consolidate strategies across services, discrepancies and limitations were also identified.

At present, domestic legislation remains vague with regard to language, which contributes to such gaps and inconsistencies in provision. In the absence of clear, centralised legal requirements, the nature of language support tends to be determined at the local level, and could be improved if language-related equalities requirements were clarified and

strengthened. This thesis concludes that a more rigorous, inclusive approach to equalities law, one that explicitly extended legal protection to language, would demand greater consistency from public service providers, promote good practice and facilitate inclusion.

Coherent approaches to language provision in the public sector could significantly improve accessibility and inclusion. If guidelines with regard to practice became more standardised across sectors and geographical areas – through the publication of up to date language-related strategies by national bodies in Scotland, for instance – this would also facilitate consistency in provision. Furthermore, public service providers themselves could, through increased collaboration with one another, expand interpreting and translation services through the sharing of resources and good practice.

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List of abbreviations

ACPOS	Association of Chief Police Officers in Scotland
ASL	Additional Support for Learning
ASLS	Additional Support for Learning Service
BBC	British Broadcasting Corporation
BME	Black and Minority Ethnic
BSL	British Sign Language
CEC	City of Edinburgh Council
CEFR	Common European Framework of Reference for Languages
CJEU	Court of Justice of the European Union
CoE	Council of Europe
CoEU	Council of the European Union
COPFS	Crown Office and Procurator Fiscal Service
COSLA	Convention of Scottish Local Authorities
CRC	(United Nations) <i>Convention on the Rights of the Child</i>
CRE	Commission for Racial Equality
DPSI	Diploma in Public Service Interpreting
EAG	(Scottish Courts and Tribunals Service's) Equalities Advisory Group
EAL	English as an additional language
EaRN	Equality and Rights Network
EC	European Commission
ECHR	(Council of Europe's) <i>European Convention on Human Rights</i>
ECJ	European Court of Justice
ECRML	<i>European Charter for Regional or Minority Languages</i>
ECtHR	European Court of Human Rights
EIS	Educational Institute of Scotland
EP	European Parliament
EQIA	Equality and Diversity Impact Assessment
ESOL	English for Speakers of Other Languages
EU	European Union
EuCo	European Council

EULITA	European Legal Interpreters and Translators Association
FCPNM	<i>Framework Convention for the Protection of National Minorities</i>
GCC	Glasgow City Council
GCHSCP	Glasgow City Health and Social Care Partnership
GP	General Practitioner
GTIS	Glasgow Translation and Interpreting Service
HIS	Healthcare Improvement Scotland
HSCP	Health and Social Care Partnership
ICCPR	(United Nations) <i>International Covenant on Civil and Political Rights</i>
ITS	(City of Edinburgh Council's) Interpretation and Translation Service
LSIG	Languages Strategic Implementation Group
MIME	Mobility and Inclusion in Multilingual Europe
MIPEX	Migrant Integration Policy Index
MP	Member of Parliament
NALDIC	National Association for Language Development In the Curriculum
NHS	National Health Service
NHS GGC	(National Health Service) NHS Greater Glasgow and Clyde
NISRA	Northern Ireland Statistics and Research Agency
NOS	National Occupational Standards
NRCEMH	National Resource Centre for Ethnic Minority Health
NRPSI	National Register of Public Service Interpreters
NRS	National Records Scotland
NUBSLI	National Union of British Sign Language Interpreters
OJEU	Official Journal of the European Union
ONS	Office for National Statistics
PASS	Patient Advice and Support Service
PSE	Personal and Social Education
PSHE	Personal, Social and Health Education
RCSLT	Royal College of Speech and Language Therapists
SCC	Scottish Consumer Council
SCEN	Scotland China Education Network
SCRA	Scottish Children's Reporter Administration

SCS	Scottish Court Service
SCTS	Scottish Courts and Tribunals Service
SITA	Scottish Interpreters and Translators Association
SME	Small and medium-sized enterprise
SQA	Scottish Qualifications Authority
SRC	Scottish Refugee Council
SVPRP	Syrian Vulnerable Person Resettlement Programme
STICF	Scottish Translation, Interpreting and Communication Forum
TICS	Translating, Interpreting and Communication Support
UK	United Kingdom
UN	United Nations
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Committee

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Chapter One: Contextualising the research setting

1.1 Introduction

This thesis addresses multilingual public service provision in Edinburgh and Glasgow, discussing the legal instruments, supranational, national and local, that influence the development of such services and the challenges faced in service delivery. The research was undertaken as part of a wider programme of research for the Mobility and Inclusion in Multilingual Europe (MIME) project,¹ and concentrates on local level services in these two cities. Consideration of both the Scottish and United Kingdom (UK) levels is nevertheless necessary in order to contextualise the situation, since there is both UK and Scottish legislation that affects the local dimension. Mobility and inclusion are two central considerations within the MIME project, both of which are engaged by this research topic, as they are significant factors regarding multilingual public services. Mobility is engaged by the migration processes that drive the growing linguistic diversity in the UK (and elsewhere) and therefore the demand for multilingual services. The provision of services in languages other than English is often delivered as a practical response to language needs among service users, but is connected to the issue of inclusion in that it facilitates equal access² to essential services such as healthcare, housing and education. The focus in this thesis is primarily on inclusion rather than mobility in terms of access to services and social inclusion, although a consideration of relevant legal norms concerning immigration will be included. Issues related to mobility will be addressed where pertinent, and certainly this evaluation of multilingual service provision at the local level engages mobility in the sense that increased provision may allow for a more inclusive society and therefore potentially facilitate mobility.

In order to discuss multilingual public services in Edinburgh and Glasgow, it is necessary to begin by considering the legal instruments and policies that have been established to respond to increased diversity resulting from migration. The research that informed this

¹ An interdisciplinary research project funded by the European Commission (EC)'s Seventh Framework Programme that focused on multilingualism in Europe and aimed to produce policy recommendations that responded to multilingualism in a way that balanced mobility and inclusion (MIME, [2018a]).

² 'Access' is defined by NHS GGC ([2015a]: 34) as: "[t]he extent to which people are able to receive the information, services or care they need and are not discouraged from seeking help" and the examples identified include translated materials and culturally appropriate services – such provision facilitates *equal* access.

work therefore includes the evaluation of a range of relevant instruments, the obligations they place on states and on service providers and the nature, or degree, of their implementation. This thesis will also explore how certain service providers have responded to the reality of a multilingual public at the local level, in the absence of supranational, UK or Scottish legal or policy frameworks with detailed language provisions. Research interviews carried out with a range of service providers in Edinburgh and Glasgow provided an insight into the realities of delivery: multilingual service demand, multilingual service development and the barriers or complications encountered in meeting that demand.

As linguistic diversity has increasingly become part of everyday reality in the UK, public service providers have been challenged to adapt their provision to meet the language needs of an ever-more multilingual population. Within key public domains such as healthcare, the court system, local authority services and education, multilingual provision has sometimes been developed in order to support members of the public who need to access these services in languages other than English. In many cases, as we shall see, public service providers have responded on a rather ad hoc basis, according to demand in their area, and there remains a lack of standardisation and centralised strategies. This has led to a certain amount of variation between services, depending on geographic area, and in some cases a distinct lack of coordination among service providers.

Multilingual services may include the provision of interpreters (either face-to-face or telephone interpreting) to facilitate access to public services or the translation of resources into languages other than English. Another consideration with regard to multilingual provision in the public sector is the potential role of bilingual or multilingual members of staff, who could directly deliver front-line services in often-required languages. As will be discussed in Chapter Four, however, several service providers included in this research have prohibited this practice, adopting strategies that require the use of professional interpreters. In the UK, such provision as exists is usually managed at a local level and developed with reference to the perceived language needs of the local population. Practical challenges such as financial constraints are common, as local services operate within budget limitations at a time when many public services are experiencing funding cuts. Yet there are also a number of other resource constraints that can hinder service provision: an insufficient

number of employees with multilingual capabilities³ and expanded remits in terms of service delivery, all while service demand is growing. As a result, many local service providers have implemented changes in strategy in an effort to meet the needs of service users despite the practical challenges faced. In addition to such practical challenges, some service providers additionally encounter significant attitudinal challenges. This is particularly the case in education; enduring preconceptions about multilingualism and monolingualism complicate the delivery of support in schools for pupils who have English as an additional language (EAL).

The selected research setting of Scotland illuminates the intersection of the supranational, national and local levels with regard to law and policy, while the terms of Scottish devolution determine which policy areas are the responsibility of the UK (Westminster) government and Parliament (reserved matters), and which are devolved to the Scottish (Holyrood) government and Parliament (devolved matters). This political arrangement is of relevance to the topic of this thesis because, under devolution, significant policy areas relating to mobility (immigration and asylum) are matters for Westminster, while several key policy areas connected to issues of inclusion, such as health and social services, housing, education and training, are devolved to Holyrood. This creates an interesting dynamic because laws and policies relating to the movement of people (at present, non-EU citizens) into the UK are decided at the UK level, while managing and responding to the implications of that mobility is frequently the responsibility of Scottish political institutions. This research setting was therefore particularly interesting and pertinent as a case study because it allowed for an evaluation of mobility and inclusion within a context in which the two are explicitly governed, to a considerable extent, in separate, if somewhat connected, political institutions.

In order to evaluate the adequacy of the legal and policy context in Scotland, this research involves first an identification of the legal and policy context for the provision of certain public services, then of the extent to which that context has been translated into micro-level policies by organisations responsible for service delivery in Edinburgh and Glasgow and,

³ As previously mentioned, it should be noted that a number of public service providers included in this research have raised issues with regard to the use of bilingual members of staff as interpreters and/or require the use of professional interpreters. This is further discussed in Chapter Four: please see section 4.2.3.1, for example.

finally, where such a context is lacking, the identification of how service providers have responded. The services to be considered are the NHS Boards for the Lothian area (NHS Lothian) and for Greater Glasgow and Clyde (NHS GGC); the local authorities for Edinburgh (the City of Edinburgh Council (CEC)) and Glasgow (Glasgow City Council (GCC)); education services in each city, and the Scottish Courts and Tribunals Service (SCTS). The services in question were contacted in order to arrange a series of qualitative research interviews with, for the most part, service managers, in order to gain an insight into how the services operate, the language needs of their service users, and the realities and potential challenges encountered in service delivery.

The two areas of research, the analysis of legal and policy instruments and the evaluation of service provision, were chosen in order to appraise the multilingual services available in the public sector, in light of the legal and policy obligations under which they operate. Given that this thesis discusses the dynamic that exists between the promotion of mobility and inclusion in the Scottish public sector, clarifying legislation and policy that is relevant to mobility and that influences measures designed to facilitate inclusion – such as the provision of multilingual public services – is a significant aspect of this research. Challenges faced by service providers due to existing legal and policy frameworks may also suggest a need for changes to those frameworks, an issue that shall be considered in the conclusions to this thesis.

Following this Introduction, section 1.2.1 clarifies key concepts and discusses issues around terminology with regard to languages, immigration and diversity, with language provision the focus of section 1.2.2. Chapter One concludes with section 1.3, which contextualises the research setting in terms of linguistic diversity, analysing the approach to language issues in the UK, highlighting certain elements of language education that will be considered further in subsequent chapters, and discussing how the global status of English influences attitudes towards multilingualism and language learning in the UK.

Chapter Two describes the research methodology: a more detailed statement of my research aims, and of the research methodology used throughout this project. Following this, there is a reflective evaluation of this methodology, consideration of my positionality as the researcher and the challenges encountered during the research process, in addition to the limitations of some of the data sources referenced during research for this thesis.

Chapter Three analyses the legal and policy context in which this research is situated, examining the legal frameworks and policies that are relevant to linguistic diversity, equalities issues, immigration and inclusion in Scotland. There are multiple levels of governance that are pertinent to such a discussion, because local policy and strategy in Scotland is influenced by legal and policy instruments introduced at the supranational, UK and Scottish levels: bodies such as the European Union (EU) and the Council of Europe (CoE) have established frameworks that are relevant to these issues and that have implications for Scotland. In Chapter Four, the findings of my research into multilingual service provision in Edinburgh and Glasgow are discussed. The organisations that were selected for further research are identified and the reasons for these choices are explained. Following on from these details regarding the research focus and participants is a discussion of the findings from the interviews with service providers, the development of multilingual services in their respective sector, any debates or contentious issues relating to service delivery, and the challenges faced in meeting language needs on the ground.

The implications of this research for service development and provision, for legal and policy frameworks, including any need for legal changes at either the supranational or domestic (UK and Scottish) levels, will be summarised in Chapter Five, as will the conclusions reached during this project and possibilities for further research.

1.2 Key concepts and terminology

1.2.1 Terminological choices

Terminology and language usage with regard to linguistic diversity, different language groups and, indeed, different kinds of languages, vary significantly according to, for example, country, culture and political intent. It is necessary to determine the terminology to be used in this thesis and justify these choices, since terminology can have significant socio-political connotations, and this research – connected as it is to issues such as immigration, diversity and social inclusion – is situated in a contentious area. As a result, it is important to consider terminological options carefully and critically, taking into account the socio-political implications of certain word choices.

In the UK, terminology in the public sphere can be coded with certain attitudes and political stances, particularly in terms of language used with regard to immigration and diversity, both of which are relevant to language issues and to this research. The role of language choices in both communicating and reinforcing particular ideologies and attitudes should be noted, since language not only communicates social reality, but also plays a role in constructing it (Richardson, 2008). As such, the status and perceived value of different languages and language speaker communities can be influenced by how they are framed in the public sphere; word usage and terminological choices can influence how different languages are perceived, both by society at large and by their own speaker communities.

The first terminological choice I will address is that of the range of terms used to denote different types of languages and their speaker communities. For example, in the context of this research, the focus is on public service provision for speakers of languages other than English who are unable to access these services through the medium of English, due to having low or non-existent English language competency. My research therefore centres on provision for speakers of languages that have traditionally been associated with migration processes, as opposed to languages traditionally associated with the UK. In the context of this research, an example of the latter group of languages would be Scottish Gaelic, which, while of course very relevant to the linguistic composition of Scotland and to issues of linguistic diversity more generally, is not the subject of this research.

It is therefore necessary to clarify which languages are connected to such interpreting and translation provision in Scottish public services and to distinguish these from languages traditionally associated with Scotland – Scottish Gaelic and Scots – or with other parts of the UK, such as Welsh and Irish, because these languages and their speakers exist in a different context and under different legal and policy instruments. As previously mentioned, there is a range of terminology in use in different contexts to refer to these two different groups of languages. In the UK, some commonly used terms used with regard to the languages focused on in this research are community languages, heritage languages and immigrant languages. For the purposes of this thesis, however, the two terms that will be used are *allochthonous* and *autochthonous* languages, in preference to other terms (which will be discussed subsequently) that have often been used in relation to the languages in question. The reason for this terminological choice is that autochthonous and allochthonous are

arguably more neutral (Bekers, 2009) than other commonly used words, due in part to their origins in the natural sciences: they were originally used in the field of geology. In this context, *autochthonous* applies to rocks or deposits found in the same location in which they were formed, whereas *allochthonous* refers to those that are found elsewhere. With regard to languages, the former may therefore refer to languages that are traditionally associated with the territory in question – in this case, the UK and, more specifically, Scotland – while the latter denotes languages that are associated with processes of migration.

It should be noted that these terms still have the potential to be contentious, however, in certain contexts. When applied to languages themselves, *allochthonous* may indeed be accurate, but of course speakers of *allochthonous* languages themselves are not necessarily ‘from elsewhere’; they may be citizens of the state in question (for example, UK-born citizens and naturalised migrants in the UK) regardless of speaking *allochthonous* languages (Edwards, 2001; McLeod, 2008). The use of *allochthonous* in relation to people rather than to languages could therefore be inaccurate and exclusionary. In some states, the equivalent word is used to set particular people apart; in both Belgium and the Netherlands, for example, the “(supposedly) non-judgmental” term ‘*allochthonous*’ is “rarely” used in its neutral sense and is rather frequently applied to specifically “non-Western immigrants and, by extension, their descendants, even when the latter were born in the Low Countries” (Bekers, 2009: 61). These are examples of the limitations of the term and of the potential difficulty in identifying terminology that is devoid of any socio-political connotations or contentious elements; it is of course necessary, however, to choose terms for use in this research, and therefore these are the two principal terms that will be used here.

Allochthonous languages as used in this thesis will refer to any and all languages that are not traditionally connected to the UK and have become established through either historical or contemporary immigration processes, such as Urdu, Arabic, Polish, Mandarin and French.

When discussing languages such as Scottish Gaelic (as well as Irish and Welsh, for example), the terms “regional language” and “minority language” are often used. These terms are linked to a number of supranational European instruments relevant to the protection and promotion of these languages and the protection of national minorities, such as the *European Charter for Regional or Minority Languages* (the ECRML) (CoE, 1992) and the *Framework Convention for the Protection of National Minorities* (the FCPNM) (CoE, 1995).

Such instruments establish obligations on state parties with regard to the prevention of discrimination and the delivery of particular services. The ECRML sets out measures for languages specifically – rather than for their speakers – while the FCPNM established the rights of individual members of national minorities themselves. The use of the term “minority” language, while common in the field, arguably has drawbacks; while it is often used to denote languages other than the ‘majority’, state, or dominant languages and can indicate a numerically smaller speaker community, there is the potential for an implication of status or value when the terms ‘majority’ and ‘minority’ languages are used: “the term ‘minority languages’ suggests languages spoken by only a small number of people (manifestly not the case in relation to languages of world significance such as Arabic, Chinese, and Urdu) or languages which are somehow intrinsically of less value than ‘majority’ languages” (Wei, 2018: 597). Additionally, ‘minority languages’ tends to be used to refer to languages traditionally associated with the state in question, but could arguably apply to languages that have become established in the state more recently due to historic or contemporary immigration. Although such languages may be numerically significant and/or be perceived as valuable culturally, politically and economically in other states, when present in a state following migration processes, ‘minority languages’ could also apply to them where they are spoken by a numerically smaller group than the dominant language.

The term ‘minority language’ is often associated with autochthonous languages, as in the ECRML, and yet, given the particular context of the UK, it could be somewhat ambiguous. ‘Ethnic minority’ is a fairly common term in the public sphere, used to refer to national or racial minorities – often in relation to immigration, either historic or recent – and ‘minority language’ could therefore also imply allochthonous languages. This is to be avoided if possible due to occasions in UK public discourse in which ethnic minorities and allochthonous languages have been linked to socio-political problems. One example of this was in the aftermath of instances of social unrest in 2001, when the “so-called ‘race riots’” were discursively linked by a Member of Parliament (MP) to allochthonous languages (Blackledge, 2004: 77), associating “minority Asian languages” (Blackledge, 2004: 68) with low educational attainment, unemployment and criminal activity (Cryer, 2001). Such

discourse is connected to the use of “topos of threat”⁴ and “topos of burden”⁵ (Wodak and Boukala, 2015: 265, 261) that can be found in the British public sphere with regard to immigration and diversity (Ruhs, 2012); drawing connections between allochthonous languages and perceived threats to social cohesion is problematic.

Two terms with problematic connotations are ‘immigrant languages’ and ‘migrant languages’, both of which conflate allochthonous languages with immigration in a way that is potentially exclusionary and inaccurate. In the UK, immigration is a contentious policy area and is a sensitive issue in the public sphere, so framing allochthonous languages as connected to immigration risks negatively influencing attitudes towards allochthonous languages and othering⁶ allochthonous language speakers in an exclusionary manner. Furthermore, such terminology is in many cases inaccurate, particularly when applied to allochthonous language speakers, many of whom may be British and British-born citizens (McLeod, 2008) – but arguably to some extent also when used to refer to allochthonous languages that have been established in the UK for multiple generations.

In the UK context, ‘community languages’ and ‘heritage languages’ are often used in reference to languages spoken by ethnic and linguistic minorities. As Extra and Gorter (2001: 4) note, however, the term ‘community language’ is in fact also used in reference to the official languages of the EU and is therefore ambiguous. Furthermore, the term ‘community languages’ associates such languages very strongly with their speaker communities, which Extra and Gorter (2001) argue carries an implication of narrow scope and limited relevance outside of those communities. This could suggest that language maintenance is the sole responsibility of speaker communities, rather than of the state, and risks overlooking their significance in the socioeconomic sphere (Extra and Gorter, 2001). In the case of

⁴ This concept is “summarized by the conditional: “if a political action or decision may have specific dangerous, threatening consequences—against the general public health—it should not be performed” and, when used in the context of migration and diversity, may for instance take the form of associating migrants with social fragmentation and socioeconomic problems (Wodak and Boukala, 2015: 262).

⁵ Wodak and Boukala (2015: 261-262) explain this as a concept “according to which “if a person is burdened by specific problems, one should act to diminish these burdens” and connect it to discourse related to immigration into, and the attainment of residency in, the EU that depicts non-EU migrants as drains on EU states, often in relation to state welfare benefits.

⁶ ‘Othering’ signifies distinctions made between social groups and “can be conceptually defined as the manner in which social group dichotomies are represented in language via binary oppositions of ‘us’ and ‘them’” (Nilsen, Fylkesnes and Mausethagen, 2017: 40). It is often used to establish one or more of those groups as a threat: “traditional identity politics of defending the fragile ‘us’ from the challenging ‘other’” (Berg, 2002: 110).

allochthonous languages in Scotland, and in the UK more widely, there are cultural and socioeconomic dimensions to linguistic competency. While, as previously stated, the cultural value of allochthonous languages extends beyond their current speaker communities, there nevertheless remains a cultural dimension within those communities to which language maintenance is significant as a form of “cultural continuity” (Nauck, 2001: 159). Such maintenance of allochthonous languages additionally brings socioeconomic benefits, particularly for those languages whose speaker communities have become numerically and culturally significant in the UK, such as Polish, those with politically noteworthy positions in Europe, such as French, and those that have large speaker communities internationally, such as Spanish, Mandarin and Arabic. People who develop or maintain skills in such languages may find that those skills offer socioeconomic advantages. Furthermore, given that the UK has a traditionally monolingual culture (Edwards, 2001; McLeod, 2008), which is also present in Scotland (Hancock, 2014a), which arguably discourages allochthonous (and autochthonous) language learning, there is a dearth of language skills in the labour market that disadvantages the UK in terms of international trade and business (Foreman-Peck, 2007). The acquisition of allochthonous language skills can therefore expand socioeconomic opportunities for the state as well as for individuals, in addition to carrying cultural value, conferring benefits to allochthonous language speakers both within and outside of existing language communities.

The term ‘community languages’ could arguably be used to refer to both autochthonous and allochthonous languages (Extra and Gorter, 2001; McLeod, 2008), as the term

has come to refer to languages used by members of minority groups or communities as their first languages within a majority language context. Some of these are languages that have been used for hundreds of years in the community concerned; others may be of more recent origin (Wei, 2018: 597).

Similarly, ‘heritage languages’ can also be applied to languages that are no longer widely spoken, but were introduced to a state by historic immigration and are still supported by educational, religious and cultural activities (National Association for Language Development In the Curriculum (NALDIC), 2015) or to autochthonous languages. This research focuses on allochthonous languages, however, for which the context differs from that of autochthonous languages in Scotland and in the UK, and it is therefore necessary to use a term that differentiates between the two.

With regard to allochthonous languages and their speakers, pertinent issues include socioeconomic inclusion and linguistic provision to facilitate access to necessary services – the subject of this thesis – in the context, arguably, of limited legal or policy frameworks focused on allochthonous language issues. For autochthonous languages and their speakers, on the other hand, there are frameworks in place (both national and supranational) and relevant issues include revitalisation efforts and cultural production. There are shared concerns, of course, such as intergenerational transmission and the availability of education in the languages in question, but the contexts in which autochthonous and allochthonous languages exist differ, as do their positions in legal and policy frameworks. The distinction between the two is therefore significant, given that the focus of this research is on allochthonous languages. It is important to use language that carries as little ambiguity as possible and thus, as previously stated, for the purposes of this thesis, the principal terms used will be allochthonous languages and autochthonous languages, in reference both to the languages themselves and to their speaker communities.

It should also be noted that, in Chapter Four, the term ‘BME’⁷ will be used in reference to Scottish public sector provision and service users. Many of the public service resources discussed in that chapter utilise that term in reference to policies, guidelines and monitoring relating to equality and inclusion, as they engage issues of ethnicity and race. While of course such communities are heterogeneous and allochthonous language usage is by no means universal within them, given the ensuing discussion of the connection between ethnicity, race and language in UK equalities law, as well as the widespread use of the term among the service providers included in this research, it will be found in Chapter Four. As was mentioned above, however, terminological choices can be complex and sometimes problematic: it must be acknowledged that there have been arguments made against the usage of ‘BME’, for a variety of reasons, not least the potential implication of homogeneity and the lack of explicit inclusion of certain groups (see Cole, 1993; Aspinall, 2002). The choice to use the term in this thesis, while recognising those issues, was largely due to the

⁷ “BME is an abbreviated term for Black/Minority Ethnic and is used to describe people from minority ethnic groups, particularly those who have suffered racism or are in the minority because of their skin colour and /or ethnicity.” (NHS GGC, [2015a]: 34).

necessary references to and quotations from Scottish public service providers' own texts and resources, in which it is used.

Additional terminology relevant to the issues addressed in this thesis include concepts related to sociocultural inclusion processes. Concepts, and associated policy approaches, such as 'assimilation' and 'integration' vary according to research setting and have been discussed widely by scholars (Brubaker, 2001; Bloemraad et al, 2008; Schneider and Crul, 2010). In line with Berry's (1997) model and in relation to individual identity, Nandi and Platt (2015) used 'assimilation' to signify the prioritising or dominance of British national identity and 'integration' to refer to the holding of a dual identity. Assimilation⁸ has been criticised (Brubaker, 2001) due to arguments that it implies a process by which immigrants and subsequent generations become similar to a promoted sociocultural community or identity (Schneider and Crul, 2010). Schneider and Crul (2010: 1144) argued that the European approach to integration "carries the implicit ideal of (a minimum degree of) cultural homogeneity – especially referring to language – as a prerequisite for social cohesion" and as such denotes a similar expectation and objective as 'assimilation', although the tendency for public institutions, despite this, to adopt pragmatic strategies related to language was also noted. The similarities between the two concepts have also been raised by other scholars (Brubaker, 2001; Bloemraad et al, 2008). It is important, therefore, to clarify my usage of any relevant terms.

Due to the aforementioned arguments regarding integration, 'inclusion' is the preferred term in this thesis, in relation to the policy and practice that is evaluated here, because it characterises the goals of socioeconomic inclusion for allochthonous language speakers, more broadly, and of equal access to public services, more specifically. At times, however, the discussion centres not on an end goal, nor on policy approaches or practices within the public sector that relate to allochthonous language speakers or those present in the UK following migration, recent or historic, but on the behaviour and choices of those people themselves, with regard to identity and participation in UK life. In the latter case, 'integration' has been used here in reference to the *process* of settlement and participation

⁸ It should be noted that there are different understandings and applications of this concept (Brubaker, 2001; Schneider and Crul, 2010).

in public life and the labour market, for instance, and of acquisition of the dominant language – English, in this case.

1.2.2 Language provision in the public sector: interpreting and translation

One of the central elements of this research is an evaluation of a range of public services in Edinburgh and Glasgow with regard to the multilingual provision they offer, principally centring on interpreting and translation provided for service users who are unable to access such services in English. As previously mentioned, the fact that language support could be provided by multilingual members of staff providing frontline services in the public sector should be acknowledged, but there are also a number of potential complications and risks associated with such language provision, since it would be delivered without being mediated via an interpreter. This issue will be discussed in further detail in Chapter Four.⁹ Interpreting and translation are services of growing importance across sectors, both private and public. Interpretation relates to the spoken word and interpreting services provide both face-to-face and telephone support, depending on a range of factors such as circumstances, demand and capacity. Translation, on the other hand, relates to the written word and its provision comes in the form of resources such as information leaflets that have been translated into languages other than English.

With regard to the UK private sector, research into the role of language skills in business and industry has concluded that the persistence of the monolingual tendency in the UK, in addition to the global status of the English language, has contributed to a lack of language skills within its workforce. The UK's "unusually strong ethos of monolingualism" (McLeod, 2008: 202) influences its population's acquisition of skills in languages other than English. The resulting impact on UK business and trade was explored by Foreman-Peck (2007), who observed that the position of English as a global language encourages complacency in English-speaking countries, which means that language teaching and other methods of developing competency in languages other than English receive insufficient investment. This leads to a lack of language skills in the population that presents an obstacle to business

⁹ Please see section 4.2.3.1, for example, for discussion of these issues.

interests and is “equivalent to a tax”, described in the UK context as a “handicap imposed on international trade by language differences” that exceeds the global average (Foreman-Peck, 2007: 22).

The public sector context is quite different with regard to interpreting and translation. Public services engage interpreting and translation services in order to meet the practical needs of service users who cannot access existing provision in English. In some cases, public service providers develop their own interpreting and translation services: for example, NHS GGC and the CEC have established in-house interpreting and translation services that work to meet the needs of their service users. Nevertheless, in many cases, public service providers do have to engage the services of private interpreting (and translation) agencies in order to meet demand, a practical challenge that will also be discussed in more depth in Chapter Four. Capacity and resource limitations in the public sector can also mean that translation is limited to the most essential resources and the most commonly required languages in the geographical area in question, with other translations produced on an ad hoc basis as dictated by need and requests from service users.

Practical issues, such as a lack of competency in English which prevents even initial communication, are addressed through a variety of methods, such as so-called ‘Language Charts’ that use a visual means of facilitating the identification of language needs, and therefore of interpreting and/or translation requirements. Such methods are common, for instance, in healthcare settings such as doctors’ surgeries, although the form that they take may vary; in some cases, ‘Language Charts’ are provided in paper format as a poster, while in others, the process of indicating a first language (L1)¹⁰ and associated language needs is done through a digital device. This demonstrates that multilingual provision in public services varies widely and has little consistency or standardisation across services; this will also be discussed further in Chapter Four.

¹⁰ Multiple terms such as first language (L1), home language and mother tongue could be used, and phrasing varied in the 2011 Census questionnaires and data (Office for National Statistics (ONS), [2012], 2013b; National Records of Scotland (NRS), 2018). This thesis will use the term ‘L1’, unless directly quoting a source in which another term is used.

1.3 The position of language in the UK and Scotland

1.3.1 The status of language in the UK

Although a number of equalities instruments, both supranational and national, have implications for the UK, when it comes to domestic legislation and policy, languages have been largely overlooked: language is considered to be a “minor and peripheral” (McLeod, 2008: 202) issue in the political sphere and therefore receives little focus from policymakers. There are supranational, language-specific instruments that place certain linguistic (and language policy)¹¹ obligations on the UK, but these are for the most part focused on autochthonous rather than allochthonous languages. Language policy in the UK has been characterised as “highly variegated and amorphous”, involving an ad hoc range of “largely independent decision-making processes and discourses”, rather than comprising a formal or systematic approach, with clear and definitive laws or texts, to realising particular principles or underlying standards (McLeod, 2008: 201-202). McLeod (2008: 202) identified language-related policy in the UK as a “policy web” that includes provisions addressing the protection and promotion of cultural diversity, equality of opportunity, equal access to and participation in the labour market and in public life and regional development. In the field of equalities, relevant domestic legislation has tended to focus on identity markers such as ethnicity and race rather than language, so that in many cases, equalities legislation can only be applied to language communities indirectly through measures that protect against discrimination on grounds such as race, ethnicity and belonging to a national minority. This is true of the definition of ethnicity that was applied in the (*Mandla v Dowell Lee et al* [1983] AC 548) case, which recognises the role of language as a marker of identity. This interpretation is possible under the *Equality Act 2010*, in that language may be considered to be indirectly protected under the ‘race’ category. The apparent perception among the service providers evaluated in this research that language provision forms part of their equalities obligations under the *Equality Act 2010* will be discussed in Chapter Four. These

¹¹ Spolsky and Shohamy (2000: 1) defined language policy as “an effort by someone with or claiming authority to change the language practice (or ideology) or someone else”. They characterised language practices within a community as “its ethnography of communication or patterned use of its linguistic repertoire” and language ideology as “the consensus on what [language] varieties are appropriate for what purposes” (Spolsky and Shohamy, 2000: 1).

legal issues will be addressed in greater detail in Chapter Three, but for the purposes of this section, it is important to note that language-related obligations established by supranational instruments tend not to focus on allochthonous languages, while domestic UK legislation generally overlooks language issues (McLeod, 2008); as a result, there is little provision for allochthonous languages or their speakers at the UK level.

The provision that does exist tends to be developed at the local level as a pragmatic response to language needs in that area and can therefore be somewhat ad hoc, with inconsistency between different places, because there is a lack of national frameworks or standardisation of provision. McLeod (2008: 202) observed a significant tendency towards “pragmatism and adjustment” as an approach in the UK, and the lack of a distinct framework to shape policy or practice. Schneider and Crul (2010) also noted that, despite the often contentious discussion in Europe regarding the management of diversity, state agencies and institutions tend to address the needs of migrants and allochthonous language speakers rather pragmatically, and that this is often overlooked in the context of such debates.

Although a “claimed preference” for the use of official state languages rather than allochthonous languages is present in many states, they argued, public services often employ multilingual staff or interpreters in order to meet the practical language needs of the populations they serve – sometimes even in direct contradiction to official discourse and ideologies (Schneider and Crul, 2010: 1144-1145). Another aspect of such pragmatic approaches that should be acknowledged is that they are likely to be focused on language need rather than on language choice – the former, McLeod (2008: 214) noted, is “clearly the operative norm in the UK”, where the provision of public services in allochthonous languages is conditional on a service user’s inability to access them through English. In the course of this research, however – as will be discussed in subsequent chapters – several instances were found in which service providers referred to the users of interpreting and translation services in terms of languages of preference rather than of need (NHS Lothian, 2010; NHS Scotland, 2018a; NHS 24, 2019a; NHS GGC, 2019b). In addition, the use of this formula was recommended (Scottish Executive, 2006a) for the language-related data collection in the 2011 UK Census in Scotland, although the finalised census questionnaire

did not in fact do so (National Records Scotland (NRS), 2018). It is nevertheless interesting that a shift in attitude may be in progress.

The lack of legal provision for allochthonous languages, which are a significant aspect of the UK's linguistic diversity and linguistic composition, has been accompanied by a scarcity of accurate and up-to-date linguistic data (Edwards, 2001; Dunbar, 2006). The absence of data available also illustrates that language has not tended to be a significant factor in UK policymaking. Until fairly recently, information relating to allochthonous languages was omitted from much of the demographic data collection that took place in the UK. Although some figures concerning these language communities were gathered in smaller, more localised studies, many of these focused on specific geographic areas (often London), did not provide a national picture of this element of the UK's linguistic composition, and were generally not commissioned or undertaken by the government with a view to policymaking. Data about autochthonous languages had been requested as part of national level data collection, such as the UK censuses, for some time. It was not until 2011, however, that the censuses carried out in Scotland, Wales, England and Northern Ireland introduced questions about other languages spoken at home and about proficiency in English. It is noteworthy that prior to this there was no data collection regarding allochthonous languages or English language proficiency included in UK censuses. Given that a key function of census data is to shape public policy, this suggests a perception that – with the exception of Welsh, Gaelic and Irish, which census questions for Wales, Scotland and Northern Ireland respectively addressed – language “raises no particularly important public policy issues” (Dunbar, 2006: 183). Nevertheless, the recent development of the census questions has provided information about allochthonous languages spoken in the UK, perhaps indicating a shift in perception and a recognition of the significance of language and of collecting linguistic data: “[r]esponses will provide an indication of areas and communities where foreign language service provision is necessary, and to better understand the diversity of the population and in particular the impact of English language ability on employment and other social inclusion indicators” (CoE, 2010b: 15).

Another issue that should be noted is the role of immigration in perceptions of language issues in the UK public sphere. Public discourse around immigration and diversity in the UK has implications for attitudes towards linguistic diversity and allochthonous languages,

particularly given the UK's tendency towards a monolingual culture (Edwards, 2001; McLeod, 2008). Increased immigration and the resulting growth in diversity can lead to shifts in perceptions of identity, as demographic changes influence perceptions of national identity and group membership. The "influx of newcomers to Europe that began during the post-war economic expansion" led to a reimagining of group membership and identity, in both legal and symbolic terms (Baldi and Wallace Goodman, 2015). Immigration is a contentious policy area in the EU and it has become a particularly charged issue in the public sphere in recent years, becoming "one of the most divisive issues in West European politics" (Hepburn, 2009: 514) as increasingly diverse state populations bring about the renegotiation of identities and generate questions around social cohesion: "many parties are fearful that increasing diversity will result in social conflict, weaken traditional cultures and threaten national identities" (Hepburn, 2009: 514).

Indeed, Wodak and Boukala (2015: 258) conclude from recent research into media discourse that, throughout Europe, much of the discussion concerning migrants and immigration in the public sphere appears to share "(several) almost universal features [...], which can be explained by social theories about "othering" and the discursive construction of "the stranger" and "fear of the stranger". This political approach of problematising immigration and framing it using a "topos of threat" and emphasising "fragmentation as a possible consequence of pluralism" (Wodak and Boukala, 2015: 265) can also be seen within the British media, which has expressed similarly negative associations with immigration: "[t]he English media response to increased (economic) migration has been a mixture of fear and panic, with immigrants being perceived as a drain on the welfare state and difficult to integrate" (Ruhs, 2012: 66).

The use of the "topos of burden" (Wodak and Boukala, 2015: 261) in discourse relating to non-EU migrants is found not only in political and media rhetoric within EU member states such as the UK, but also in EU institutions themselves. Often, this discourse focuses on welfare and healthcare resources; for example, a 2003 Council of the European Union (CoEU) Directive states that: "To acquire long-term residence status, third-country nationals should prove that they have adequate resources and sickness insurance to avoid becoming a burden for the Member State" (Official Journal of the European Union (OJEU), 2004b, (7)). It should be noted that, while such discursive practices are often used in the UK in relation to

non-EU migration, they are also increasingly employed when framing discussions of EU migration in the political sphere and in the media. The Labour Party government that opted out of transitional provisions following the 2004 EU membership accessions has been criticised for this decision and, while leader of the Labour Party from 2010 to 2015, Ed Miliband declared in a speech that “the truth is that the public were ahead of [the Labour government at the time] in seeing some of the problems caused by the rapid pace of migration, especially from the expanded EU” (Miliband, 2012). Additionally, the UK government’s more recent renegotiation of access to certain UK welfare provisions for EU migrants, for example, is connected to the ‘topos of burden’ discussed by Wodak and Boukala (2015). Such responses to migration from other EU member states illustrate that, despite the role of free movement as a key principle as the EU developed, it is not necessarily welcomed by member states, either at a policy level or in terms of public opinion.

The question of migration from Eastern European states to the UK became highly politicised and it began to be associated in public discourse with a burden on resources and with alleged adverse effects on the UK’s labour market, despite a lack of evidence to support such claims. “Anecdotal evidence – reported extensively in parts of the media since 2004 – suggests that EU8¹² immigration may have adversely affected workers [...] as well as put pressure, at least in the short run, on some public services that had not been adequately prepared and funded for the large inflow of EU8 migrants” (Ruhs, 2012: 66). The position of EU migration as a contentious political issue in the UK has resulted in the depiction in the public sphere of economic migrants in general as a burden on the British welfare system (Ruhs, 2012). Migration from other EU member states has garnered political and media attention, in particular since the EU8 accessions in 2004. Despite a decline in immigration from EU8 states in recent years and suggestions that much of this migration is short-term (Ruhs, 2012), a perception of migrants from these states as a liability with regard to welfare provision appears to have endured.

¹² ‘EU8’ (Ruhs, 2012) denotes eight of the ten European states that acceded to the EU in 2004: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The term ‘A8’ is also used in reference to these states (Costello and Hancox, 2014a).

Such attitudes towards migration and diversity can negatively affect perceptions of allochthonous languages in the UK due to the aforementioned tendency to draw associations between increased diversity and socioeconomic problems. The conflation of immigration and culture, including language, can have damaging consequences on attitudes towards speakers of allochthonous languages in the UK. Language teaching in the public education system also does not represent the linguistic composition of the UK, excluding many allochthonous languages and placing the principal responsibility for language teaching and intergenerational transmission on allochthonous language speaking families and communities themselves, thus suggesting that allochthonous languages have a subordinate (and expendable) role in British society. This will be further discussed in Chapter Four.

1.3.2 Linguistic data collection

1.3.2.1 Linguistic composition of the UK

Since the data discussed in sections 1.3.2.1 and 1.3.2.2 were drawn from the 2011 Census, it should be noted that the use of census data in general poses challenges. The limitations of such quantitative data, in addition to other methodological concerns, will be discussed in more detail in Chapter Two. The census results nevertheless provided a useful insight into the UK's linguistic composition: for example, the data revealed that approximately 8% of people in England and Wales speak an allochthonous language as their L1 (ONS, 2013c, 2013d). The category of allochthonous languages is, of course, a diverse one, and includes both European and non-European languages, a range of which are represented in Figure 1 (ONS, 2013d: 13; NRS, 2013h; NISRA, 2012b: 16). As can be seen from the data that are shown in Figure 1, there is significant linguistic diversity across the UK, with substantial speaker numbers for a range of allochthonous languages which have become established in the UK over time as a result of migration.

In Scotland, the allochthonous language with the largest number of speakers is Polish, while the next four allochthonous languages that were most commonly spoken at home were Chinese, Urdu, Punjabi, and French (NRS, 2013h). These results (see Figure 1) show the range of both European and non-European allochthonous language communities that have

become established in Scotland. The 2011 UK Census in Scotland found that approximately 7% of the population (369,000 people) had not been born in the UK and that, of this number, 55% had arrived in the UK between 2004 and March 2011 and the majority (89%) of these people had been aged less than 35 years upon arrival in the UK (NRS, 2015a). Such a large proportion of the non-UK born population in Scotland having arrived so recently indicates the demographic impact of recent migration flows. Considering the fact that the aforementioned group arrived after 2004 and the number of Polish-born people in particular increased so dramatically between 2001 and 2011, as shown by Figure 2, it is likely that the EU membership expansions that occurred during this period were a significant factor in the growth of the non-UK born population.

Table 1: 2011 UK Census – Respondents' L1s¹³

L1	England	Scotland	Wales	Northern Ireland¹⁴
All usual residents aged 3+	51,005,610	5,118,223	2,955,841	1,735,711
Total who do not speak English ¹⁵ as their L1	4,068,830	377,676	84,436	54,540
English (English or Welsh in Wales)	46,936,780	4,740,547	2,871,405	1,681,171
Arabic	152,490	9,097	6,800	549
Bengali	216,196	3,626	5,207	326
Chinese ¹⁶	199,378	27,381	8,103	3,580
French	145,026	14,623	2,073	850
Gujarati	212,217	878	877	47
Polish	529,173	54,186	17,001	17,731
Punjabi	271,580	23,150	1,651	194
Urdu	266,330	23,394	2,350	308

(ONS, 2013d: 13; NRS, 2013h; NISRA, 2012b: 16)

¹³ It should be noted that the list of languages shown in Table 1 is a selection only of those with the highest L1 speaker numbers across the UK, as recorded in the 2011 Censuses.

¹⁴ The data for Northern Ireland additionally included speaker numbers for a range of allochthonous languages not featured in Table 1: Hungarian (1,008 people), Latvian (1,273 people), Lithuanian (6,250 people), Malayalam (1,174 people), Portuguese (2,293 people), Russian (1,191 people), Slovak (2,257 people) and Tagalog/Filipino (1,895 people) (NISRA, 2013a: 43, Table DC2111NI).

¹⁵ English or Welsh in Wales.

¹⁶ The figures for Chinese include respondents who recorded Mandarin, Cantonese, and 'unspecified' Chinese as their L1 (in addition to Min Nan Chinese in the case of Scotland).

As mentioned previously, the UK decided not to apply the available transitional provisions to the EU8 states and subsequently received migration from those newly acceded states, including Poland (Costello and Hancox, 2014), whereas migration from the EU2¹⁷ states following their 2007 accession was restricted somewhat by the implementation of transitional measures. Migration from the 2004 accession states in particular is likely to have influenced the demographic changes in Scotland. As can be seen from Table 2, the figure for those born in Poland has increased greatly: Poland was the most common country of birth for those born outside of the UK, and the third most common country of birth overall, after Scotland and England (NRS, 2015a), reflecting the position of Polish as the most common allochthonous L1. Table 2 also shows that there have also been significant increases since 2001 in the number of Scottish residents who were born in India, China and Nigeria, while the number for “Other” countries of birth has also risen.

The rise in numbers of Polish-born residents in particular is substantial and is indicative of the impact that migration from EU8 states has had on the demographics in the UK since their accession to the EU. It is noteworthy that in the case of England, Wales, Scotland and Northern Ireland, the 2011 Census results illustrate the significance of migration from Poland in particular since the previous census (ONS, 2013f; NISRA, 2013a; NRS, 2013a); while migration from the EU8 states in general increased following their EU accession, migrants from Poland represent the largest group.

¹⁷ The terms ‘EU2’ (Ruhs, 2012) and ‘A2’ (Costello and Hancox, 2014a) are used in reference to Romania and Bulgaria, both of which became EU member states in 2007.

Table 2: Fifteen most reported non-UK countries of birth in Scotland, 2001 and 2011

Country of birth	Rank in 2011	Number in 2011	Percentage (of people born outside the UK)	Rank in 2001	Number in 2001	Percentage (of people born outside the UK) in 2001	Change in number: 2001 to 2011
Total population		5,295,403	7		5,062,011	3.8	
All people born outside the UK	-	369,284	100	-	191,571	100	177,713
Poland	1	55,231	15.0	18	2,505	1.31	52,726
India	2	23,489	6.36	5	10,523	5.49	12,966
Republic of Ireland	3	22,952	6.22	1	21,774	11.37	1,178
Germany	4	22,274	6.03	2	18,703	9.76	3,571
Pakistan	5	20,039	5.43	3	12,645	6.60	7,394
United States of America	6	15,919	4.31	4	11,149	5.82	4,770
China	7	15,338	4.15	13	3,329	1.74	12,009
South Africa	8	10,607	2.87	7	7,803	4.07	2,804
Nigeria	9	9,458	2.56	27	1,253	0.65	8,205
Canada	10	9,435	2.55	6	8,569	4.47	866
Australia	11	8,279	2.24	8	7,555	3.94	724
Hong Kong	12	7,586	2.05	9	7,068	3.69	518
France	13	7,147	1.94	11	4,850	2.53	2,297
Italy	14	6,048	1.64	10	4,936	2.58	1,112
Spain	15	4,908	1.33	17	2,555	1.33	2,353
Other	-	130,574	35.36	-	66,354	34.64	64,220

(NRS, [2003], 2013a)

Table 3: 2011 UK Census – English language proficiency

English language proficiency	England	Scotland ¹⁸	Wales	Northern Ireland
All usual residents aged 3+	51,005,610	5,118,223	2,955,841	1,735,711
L1 is not English (English or Welsh in Wales)	4,068,830	377,676	84,436	54,540
Can speak English very well	1,689,406	4,555,104	32,791	20,260
Can speak English well	1,535,579	489,579	32,340	19,811
Cannot speak English well	709,862	62,128	15,777	11,802
Cannot speak English	133,983	11,412	3,528	2,667

(ONS, 2013h; NRS, 2013b; NISRA, 2013a: 43)

Despite concerns expressed regarding English language competency in both the political sphere and in the media, another set of data from the 2011 Censuses highlights that the majority of allochthonous language speakers in the UK report proficiency in English (ONS, 2013e; NISRA, 2013a; NRS 2015a). This conclusion is also clear from the results compiled in Table 3 (ONS, 2013h; NRS, 2013b; NISRA, 2013a: 43). In England and Wales, only 3.3% of respondents who did not speak English (or Welsh in Wales) as an L1 reported not being able to speak them at all, while 79.2% of respondents could speak the respective language very well or well (ONS, 2011). People who could not speak English well, or could not speak it at all, represented only 1.4% of the total Scottish population, and only 11% of those who were born outside of the UK (NRS 2015a). The UK Census in Scotland results suggested that among those who were born outside of the UK, the proportion who were unable to speak English well, or at all, appeared to be higher among those who had been older upon arrival

¹⁸ The results released for Scotland were not disaggregated into those who speak English as their L1 and those who do not and, as a result, the data presented in Table 3 for Scotland differs from that for England, Wales and Northern Ireland.

into the UK: for example, among people who were aged 65 years or older upon arrival, 31% recorded being in this category with regard to proficiency in English, while among those who arrived before the age of 16, the figure was only 5% (NRS 2015a). In Northern Ireland, the data reveal that those who did not speak English at all comprised approximately 5% of those who recorded not speaking English as an L1, while those who reported speaking English “well” or “very well” made up approximately 73% of this group (NISRA, 2013b).

Such results indicate that, although migration processes have continued to diversify the UK population, even since the previous census in 2001, and one element of this diversification is linguistic, the majority of residents who do not speak English (English or Welsh in Wales) as their L1 are nevertheless proficient speakers. Thus, although the data collected concerning country of birth and L1 do provide a picture of increasing cultural and linguistic diversity in the UK and illustrates the demographic changes brought on by migration, the census results also suggest a certain degree of linguistic integration among those whose L1 is not English (English or Welsh in Wales).

1.3.2.2 Linguistic composition of the research setting: Edinburgh and Glasgow

The previous sections offer some context as to the linguistic make-up of Scotland, as well as England, Wales and Northern Ireland and, while the data presented for Scotland as a whole are very useful, it is helpful to additionally consider the linguistic composition of the specific research settings within Scotland. With regard to local authorities – and therefore also to education services – the two cities of Edinburgh and Glasgow are relevant, but this thesis also evaluates multilingual provision in healthcare settings. The remits of the two NHS Boards included in this research, NHS Lothian and NHS GGC, cover larger areas than simply the two cities in question, delivering healthcare services to several additional locations: Midlothian, East Lothian and West Lothian, in the case of NHS Lothian (2019) and East Dunbartonshire, East Renfrewshire, Inverclyde, Renfrewshire and West Dunbartonshire in the case of NHS GGC (2019k). Table 4 therefore illustrates the speaker numbers for a range of allochthonous languages in all of the aforementioned geographical and local authority areas, according to the data from the 2011 UK Census in Scotland, in order to establish a linguistic profile of the areas under consideration.

Table 4: 2011 UK Census in Scotland – Linguistic profile of the research setting

	Respondents' L1s ¹⁹										
	Polish	Chinese	Urdu	Punjabi	French	German	Spanish	Arabic	Italian	Russian	Hindi
Scotland	54,186	27,903	23,394	23,238	14,623	11,317	10,556	9,097	8,252	6,001	5,058
Edinburgh	11,160	6,935	2,886	2,515	3,164	2,398	3,044	2,582	2,029	890	1,277
East Lothian	710	152	122	140	262	258	172	51	136	69	40
Midlothian	396	97	167	159	159	130	123	39	136	41	13
West Lothian	2,968	376	609	549	276	262	308	77	138	111	125
Glasgow	7,379	8,976	11,370	9,482	3,079	1,208	1,354	2,859	1,264	796	1,637
East Dunbartonshire	128	549	400	1,182	237	167	178	126	239	50	132
West Dunbartonshire	346	119	91	194	75	57	50	52	54	17	36
East Renfrewshire	208	361	1,407	1,240	173	84	115	119	237	47	121
Renfrewshire	1,138	685	365	794	382	181	224	181	214	69	77
Inverclyde	97	144	78	111	120	97	53	8	141	25	18

(NRS, 2019)

As can be seen from Table 4, the greatest linguistic diversity with respect to allochthonous languages was found in Edinburgh and Glasgow. The linguistic composition of each city differed: there was a larger Polish-speaking community in Edinburgh, for instance, and the speaker numbers for several other Western European languages – such as German, Spanish and Italian – were approximately twice as high in Edinburgh as in Glasgow (NRS, 2019). On the other hand, there were significantly larger speaker communities in Glasgow for several non-European allochthonous languages: Urdu and Punjabi and, to a less considerable but nevertheless noteworthy extent, Chinese (NRS, 2019). The data for other languages included in Table 4 are more similar: there is little difference, for example, in each city's

¹⁹ The 'Chinese' figures include respondents that identified the following languages as their home language: Mandarin, Cantonese, Hakka, Min Nan Chinese, and "Chinese (not otherwise specified)" (NRS, 2019). Those census responses that stated the following as home language were included in 'Punjabi' figure: "Punjabi (India)", "Punjabi (Pakistan)" and "Punjabi (not otherwise specified)" (NRS, 2019).

numbers²⁰ for French, Russian, Hindi or Arabic speakers (NRS, 2019). A few other figures from areas aside from Edinburgh and Glasgow that are worth highlighting include the Polish-speaking communities in West Lothian and Renfrewshire – which in both cases are notably larger than any other speaker community in each respective area (with the exception of the ‘Any other language’ categories) – and the Punjabi speaker numbers in East Dunbartonshire and East Renfrewshire, which are similarly higher than the figures for other languages in both areas, other than the Urdu-speaking community in East Renfrewshire (NRS, 2019). Of course, it should be noted that these data were collected for the 2011 UK Census in Scotland and, while useful in establishing the linguistic context for the research setting, it is therefore somewhat outdated now. If linguistic information were to be collected in each of these areas now, their linguistic composition may indeed have changed in the intervening years. Such demographic shifts, of course, have implications for the development and delivery of multilingual services in the public sector.

In addition to the relevance of the distribution and size of allochthonous language communities in the areas previously identified, which form the research setting, information about proficiency in English is of course pertinent to the provision of multilingual support by the public services in question. Service users who are not able to access services through the medium of English require language provision, as will be discussed in greater detail in Chapter Four, and census data regarding English language proficiency are therefore also useful in clarifying the linguistic profile of the geographical areas in question. Tables 5 and 6 provide data on the English language skills of respondents in the local authority areas and NHS Boards that are relevant to this research. In each of the two data tables, numbers are provided for NHS Lothian, NHS GGC, the CEC and GCC. This information has implications for service demand and therefore the planning and delivery of language provision in the public sector. The aforementioned points regarding both the limitations of census data and the potential changes to the linguistic compositions in the areas in question since the data were gathered for the 2011 UK Census in Scotland also apply with regard to the numbers shown in Tables 5 and 6.

²⁰ It should be noted that Glasgow has a larger population than Edinburgh: in the 2011 Census, Glasgow had 593,245 inhabitants, compared to 476,626 in Edinburgh (NRS, 2013g).

Table 5: 2011 UK Census in Scotland – Spoken English language proficiency in the research setting

	Language proficiency (spoken English)							
	All people aged 3 and over	Language used at home: English only	Proficiency in spoken English: <i>Speaks well or very well</i>	Proficiency in spoken English: <i>Speaks well or very well (%)</i>	Proficiency in spoken English: <i>Does not speak well</i>	Proficiency in spoken English: <i>Does not speak well (%)</i>	Proficiency in spoken English: <i>Does not speak at all</i>	Proficiency in spoken English: <i>Does not speak at all (%)</i>
NHS Lothian	804,825	727,064	791,844	98.39	10,999	1.37	1,982	0.25
CEC	460,103	399,357	451,498	98.13	7,299	1.59	1,306	0.28
NHS GGC	1,097,979	998,883	1,077,847	98.17	16,662	1.52	3,470	0.32
GCC	572,633	496,027	557,282	97.32	12,628	2.21	2,723	0.48

(NRS, 2013c, 2013d)

It is interesting to note the demographic differences in the populations that fall within the remits of the four different public service providers for which data are provided in Tables 5 and 6. NHS GGC, for instance, serves a larger population than NHS Lothian, as does GGC in relation to the CEC, which of course has a bearing on any comparisons drawn between the different providers and on the areas in which they deliver services. Notable differences nevertheless do remain between the figures concerning language skills among the service users in the Edinburgh and Glasgow areas respectively. While the number of census respondents who recorded not speaking English well or at all was, proportionally, relatively low across the healthcare and local authority areas included in Table 5, the percentages of all respondents²¹ who recorded those two responses²² were higher in the NHS GGC and GCC regions than in the corresponding areas for Edinburgh, with the exception of respondents in

²¹ Of people aged three and over.

²² Those who stated that they did not speak English well or at all.

the NHS GGC area²³ who reported that they did not speak English well. These details are relevant to this research because they highlight a potentially higher demand for language support among service users who fall within the remit of public service providers in the Glasgow area than those in the Edinburgh area. As is shown by Tables 5 and 6, however, public service providers in both regions serve people who are unlikely to be able to engage with healthcare and local authority services through the medium of English and are therefore likely require language support in order to ensure equal access.

Table 6: 2011 Census – English language skills in the research setting

	All people aged 3 and over	Understands but does not speak, read or write English	Speaks, reads and writes English	Speaks but does not read or write English	Speaks and reads but does not write English	Reads but does not speak or write English	Other combination of skills in English	No skills in English
NHS Lothian	804,825	13,410	755,736	24,734	5,677	322	3,449	1,497
CEC	460,103	7,266	433,030	13,292	3,351	198	1,925	1,041
NHS GGC	1,097,979	26,580	1,022,197	33,078	7,732	511	5,147	2,734
GCC	572,633	16,517	527,674	18,330	4,452	358	3,064	2,238

(NRS, 2013e, 2013f)

The preceding section illustrates the cultural and linguistic diversity in the research setting chosen for this thesis, in order to contextualise the subsequent discussion and highlight the relevance of the research in question. While the problematic elements of census data must be acknowledged as part of the ensuing research methodology evaluation, the information gathered in the 2011 UK Census in Scotland does provide a useful picture of linguistic diversity within the population, which has implications for inclusion and equalities issues. Allochthonous language speaker numbers in the geographical regions included in this

²³ In this latter case, although the number of respondents in that category was highest in the NHS GGC area than for any of the other three service providers, the percentage of total respondents in that area that they comprised was slightly lower than the corresponding percentage for the CEC.

research are of course relevant to public service provision in those areas, because in order to ensure equal access to important services such as healthcare and education, service providers must meet the language needs of the populations in question, securing language support when needed.

Chapter Two: Methodology

2.1 Research Methodology

2.1.1 Research Aims

This thesis investigates the provision made available by a range of Scottish public services in order to meet the language needs of an increasingly diverse population, providing support to those who are unable to access the services through the medium of English. Such provision often comes in the form of interpreting, both face-to-face and by telephone, but the role of translation in facilitating access to core services is also of importance. As mentioned in section 1.1, the direct provision of services by bilingual or multilingual members of staff is another possible form of language support, but Chapter Four will consider the concerns raised by service providers regarding non-professional interpreters, and this research is primarily focused on language provision mediated by interpreting and translation services. The availability of translated documents, for instance, is an important aspect of multilingual provision, but there are other ways service providers ease understanding at the initial point of access, such as the so-called “Language Identification Charts”²⁴ that can be found in medical facilities and allow service users who do not speak English to indicate the language in which they need to communicate. As such, multilingual service provision at the local level is relevant to inclusion, broadening access to core public services and minimising language barriers to education, healthcare, and local authority services, among others.

In assessing this provision, the research discussed here evaluates how local-level strategies further inclusion in a linguistically diverse population, considering various factors, such as legal and policy norms that direct provision, and resource constraints that influence the delivery and success of such language support in the public sector. The services selected for the research encompass a range of potential intersections of public services with residents’

²⁴ These documents may be referred to by different names, according to NHS Board, for example, and provide a visual means of communicating the language in which a patient needs to access healthcare. Such visual methods may include a short sentence translated into a range of languages, or a variety of flags used to signify languages associated with certain states, allowing the patient to indicate their language needs in the case that they cannot do so in English.

lives, such as healthcare, the justice system and education. Analysing the legal and policy norms that inform the development of such provision offers an insight into the international, UK-wide, and Scottish frameworks within which public services operate and also allows for a discussion of the relationship between legal and policy instruments relevant to mobility and inclusion, and of how local services balance mobility and inclusion in practice.

Through this research, the relationship between mobility and inclusion is explored in the context of the everyday lives of residents of Edinburgh and Glasgow who are not competent in English. As a result of the realities of migration, an important contemporary aspect of mobility, the population of Scotland (and the UK, more widely) has become increasingly diverse and thereby more *linguistically* diverse. In some cases, people who become residents through migration processes have limited or no English language skills, which poses a challenge to inclusion because, without the aforementioned multilingual provision, it represents a barrier to accessing core public services (as well as possibly to other aspects of socioeconomic life). The thesis considers the interplay between mobility and inclusion in this context, but also the connection between legal and policy norms that establish obligations concerning mobility and inclusion, and the extent to which such norms are pertinent at the local level when it comes to service delivery.

2.1.2 Research Design

The research discussed in this thesis formed part of the aforementioned MIME project, which was a consortium of twenty universities, in addition to one non-profit foundation and one small and medium-sized enterprise (SME). Research teams based at these institutions were organised into seven different thematic work packages (Politics, Society, Education, Mediation, Policy, Frontiers of Multilingualism and Dissemination of Management), the first six of which investigated multilingualism in a range of EU states and contexts. My research was located in the Policy work package, formed part of Task 5.5, and centred on the relationship between law and policy arising from various levels of governance and local service delivery; between legal instruments and policy documents that influence mobility and inclusion, and the role of local service provision with regard to mobility and inclusion.

Much of the research carried out by the MIME consortium was in the form of case studies investigating the dynamic between mobility and inclusion in different European contexts, thematically focused according to the work package in question. When designing this research project, it was necessary first to determine the research setting that would be used for the case study. Task 5.5 considered how international obligations were given expression in UK law, policy and practice, and within the UK I selected Scotland as my research setting for a number of reasons.

Principal among these was the particular legal and policy context that comes from devolution, which in the case of Scotland includes an especially interesting dynamic between mobility and inclusion due to the political and legislative institutions by which different policy areas are managed. As previously mentioned, due to the arrangements of Scottish devolution, legislation and policy relating to immigration, nationality and asylum issues remain under the control of the UK government, rather than the devolved Scottish political institutions, although of course there is a degree of representation in the UK Parliament for Scotland, in the form of 59 Members of Parliament (MPs), out of a total of 650. Notable policy areas relating to inclusion, however, such as education, healthcare, social services and housing, are devolved to Scotland,²⁵ which means that, although decisions relating to population movements and nationality are made at the UK-level, a number of policy areas connected to diversity and inclusion, that is, to the effects of migration and mobility, are managed in Scotland itself.

Additionally, choosing Edinburgh and Glasgow as the two cities on which this research would focus allowed for an evaluation of two differing contexts because, as discussed in section 1.3.2.2, the demographics of the two locations vary. Linguistic composition is significant because, in many cases, the multilingual public services considered in this research are city, or area, specific and are thus developed locally in order to respond to the language needs found in that area. As a result, considering provision in two cities allowed for an assessment of how language needs are met in different contexts. Furthermore, on a practical level, access to resources and interview participants was facilitated by being based

²⁵ It should be noted, however, that not all policy areas relating to inclusion are within the remit of the devolved Scottish institutions: for example, tax, some aspects of social security, and other relevant services are still provided by departments of the UK government.

at the University of Edinburgh. With the selection of these two locations on which to centre my research project, the core aim of the project was the evaluation of public services and local authorities in Edinburgh and Glasgow to assess access to services (for example the justice system, education, health and social services) and provision in languages other than English.

A central element of this research explores the factors which shape multilingual public service delivery in Edinburgh and Glasgow. One factor is the legal and policy frameworks, and my research necessarily engaged multiple levels of governance – international, UK-wide and Scottish – within which these services are developed. Another is how such frameworks are translated into practice or, due to gaps in such frameworks, how local providers respond in practice. Through a discussion of these two topics, I hoped to determine whether or not a disparity exists between the legal and policy obligations and the interpretation and implementation of such policies (and provision) on the ground. My core research questions are: What are the legal and policy instruments relevant to language and communication needs in Scotland, and at which levels of governance were they developed? How do such obligations affect the delivery of multilingual public services on the ground? Which other practical and attitudinal challenges may be encountered by service providers in their efforts to meet the language needs of service users?

2.1.3 Methodology

The first stage of my research focused on establishing the legal and policy context in which public services in Edinburgh and Glasgow function. Due to the nature of the devolution settlement for Scotland, it was necessary to include in my research both UK and Scotland-wide legislation and policy, in addition to a number of supranational instruments – all of which will be addressed in Chapter Three – as well as locally-developed policies and strategies, which will form part of the discussion in Chapter Four. While Brexit has thrown into question the future relevance to the UK of a number of EU laws, they remain for the moment pertinent to a discussion of the approach to language issues in the UK, and more specifically to multilingual public service provision in Edinburgh and Glasgow, and therefore form a part of the legal and policy analysis.

There are of course many legal and policy instruments that could be discussed in the context of this research, but due to the scope of the project, it was necessary to identify only the most relevant for evaluation. A range of laws, policies and strategies introduced at each level of governance (supranational, national and local) were considered in order to select the most pertinent documents. The supranational instruments were evaluated in terms of the rights or protections that they establish for speakers of minoritised²⁶ languages, in addition to the implications and possible limitations of such measures. It was also useful to consider any decisions of relevance arrived at in relation to these international obligations by courts or by quasi-judicial monitoring bodies charged with overseeing the obligations in question. With regard to legislation and policy established at the UK and Scottish levels, as previously mentioned, awareness of the Scottish devolution settlement and its consequences for the management of different policy areas was necessary. Examining such law and policy was also essential in evaluating local service provision, since they form frameworks within which these services operate, in addition to establishing the basis from which strategies developed locally are constructed.

The supranational instruments identified for discussion as part of this research address a range of issues and establish protections concerning significant rights and freedoms within, for example, the education and justice systems, among others. The international legal norms discussed in this thesis include the following: the United Nation's (UN) *Convention on the Rights of the Child* (the CRC), the UN's *International Covenant on Civil and Political Rights* (the ICCPR), the CoE's *European Convention on Human Rights*²⁷ (the ECHR) and *European Convention on the Legal Status of Migrant Workers*. A number of pieces of EU law, such as *Directive 77/486/EEC* (CoEU, 1977), *Directive 2010/64/EU* (OJEU, 2010) and *Directive 2012/13/EU* (OJEU, 2012b), are also addressed in Chapter Three's analysis of relevant legal norms. These legal instruments were selected because they enshrine rights to education, linguistic provision in the justice system, freedom of expression (including the language of expression) and protection from discrimination on linguistic grounds, among others, all of which are relevant to this analysis of language-related rights and legal norms, and all of

²⁶ This is another term that is used in different ways in the field. It is used here to signify a language whose value is not recognised by those who speak a sociolinguistically dominant language (Kasbarian, 1997, cited in Cortès-Colomé et al, 2016).

²⁷ Also known as the *Convention for the Protection of Human Rights and Fundamental Freedoms*.

which have consequences for multilingual service provision at the local level. Rights and freedoms established by international law to which the UK is bound create a framework within which domestic law and on-the-ground provision operate, and therefore these legal standards are of great relevance to this research. Additionally, certain documents and reports produced by supranational bodies and international organisations, while not themselves legally binding, are nevertheless relevant and will be discussed because they highlight significant issues or address the implementation of particular laws. These documents (for example: European Commission (EC), 2008; OJEU, 2009) provide valuable insights into the application of international law and the impact of these legal norms on mobility and inclusion in Europe.

With regard to the particular research setting chosen, there are several pieces of domestic legislation that will be considered. The *Human Rights Act 1998* and the *Equality Act 2010* are key pieces of UK domestic law that are relevant to the discussion of language issues in the UK and public service provision for speakers of language other than English and will be discussed in more detail in Chapter Three. At the Scottish level, there are several pertinent laws, policies, strategies and guidance documents that will be included in Chapter Three's analysis, such as the *Education (Additional Support for Learning) (Scotland) Act 2004 (ASL Act)*, *Language Learning in Scotland: A 1+2 approach (1+2 Approach)* (Scottish Government, 2012b), *Charter of Patient Rights and Responsibilities* (NHS Scotland, 2012a), *Equality Statement, Outcomes and Guidance* (SCS,²⁸ [2011]) and *Mainstreaming Equality Report 2017* (SCTS, 2017).

Chapter Four will address policies and strategies that have been developed at the local level in Edinburgh and Glasgow, in accordance with service demand and delivery. A range of policy documents, published by local bodies and services in Scotland to support multilingual provision and offer guidance on meeting the requirements of existing law and policy, will be discussed. Examples of such documents include NHS Lothian's (2010) *Interpreting and Translation Policy*, NHS GGC's (2012b) *Interpreting Policy*, GCC's (2016a) *Every child is included and supported* and the CEC's (2003) *How to Work with Interpreters*. The discussion will focus on a number of services in Edinburgh and Glasgow that work with service users

²⁸ The SCTS was, at the time, the Scottish Court Service (SCS).

who do not speak English or who need English language support. Through semi-structured, one-to-one interviews with service providers in both Edinburgh and Glasgow, I gathered information on existing services and the challenges faced in service delivery. Although I was careful to maintain a similar structure across interviews in order to obtain comparable findings, there were necessary variations made to take into account the different services and contexts in question. The interviews usually lasted for approximately one hour and followed a similar format, with the flexibility to tailor the discussion to the service in question and to allow the interview participant to highlight specific policies, issues or insights.

Since Edinburgh and Glasgow had been selected as the research settings for this project, I identified a number of public services in each city that encounter multilingualism as part of service delivery. The principal public services selected were healthcare, education, local authority services and the justice system, as these are key public services which are of particular importance to all service users, including those without English as their L1. These providers all deliver core services at the local level and must respond to the language needs of their service users if they are to ensure equal access to these services. This project aimed to evaluate how public service providers in Edinburgh and Glasgow meet language needs in order to do so, to identify any pieces of policy and legislation that are engaged in meeting the language needs of service users, and to analyse any existing practical and attitudinal constraints that challenge provision.

The city or region-specific services with which I carried out interviews were the interpreting and translation services for NHS Lothian, NHS GGC, the CEC and GCC. In addition, I organised interviews with the EAL services in Edinburgh and Glasgow and with the SCTS, which, although it is a national body rather than a local or city-specific one, was selected as part of this research because language rights within the justice system are more explicitly established than within other areas, and it would have seemed an oversight to exclude language provision in this domain. I also used certain sources of demographic data to contextualise my research and my discussion of service demand in Edinburgh and Glasgow. The main sources of data used are the 2011 UK Census in Scotland (with acknowledgement of the problematic nature of census data) and the 2016, 2017 and 2018 Scottish School Statistics, which provide useful information about the linguistic composition of Scottish

public schools and about the numbers of pupils receiving EAL support. During the interview process, I also gathered some operational information relating to the local services that I was researching.

The first step in designing my project was to research public services in Edinburgh and Glasgow in order to identify which services to focus on and subsequently begin approaching them with interview requests. The selection process was interesting due to the number of services that could be included in such research, according to the specific research focus. Considering these possibilities while determining which services would ideally form a part of this research highlighted a number of possibilities for further research into language provision within public bodies and third sector organisations, which will be discussed further in Chapter Five. It was nevertheless necessary to identify the public services that would be most relevant to and feasible to consider within the scope of this particular piece of research.

For this reason, core services were chosen so as to allow a focus on essential provision in domains such as healthcare, the justice system and local authority services, including education. Once the list of preferred services had been finalised, and the most appropriate point of contact identified, the next step was to make enquiries and attempt to organise one-to-one interviews with that individual in order to gather more information. This was in some cases complicated by the heavy workloads and busy schedules of interview participants, as was to be expected, but fortunately it was possible to arrange to speak to all of the prospective interview participants. One consideration was that it was deemed preferable by several participants (those representing the SCTS, GCC, NHS Lothian and NHS GGC) for their interviews to be conducted by telephone rather than in person. While in-person interviews were preferred where possible, it was of course necessary to consider practical factors and the needs of interview participants, given the fact that they were willingly taking the time to participate in my research.

As previously mentioned, it was necessary to vary the interviews somewhat in order to tailor the discussion to the services in question. Although it was important to maintain as similar a structure as possible, the fact that the public services that were being considered in this research project operate in different ways and within different frameworks, in addition to the fact that the specific language provision provided by each service may vary in terms

of its source and nature, meant that some variation in interview structure and questions was necessary. For example, the language support offered by the EAL services in Edinburgh and Glasgow is funded and managed by the local authorities in each city, employing EAL staff to fulfil language needs, whereas the interpreting and translation services for the local authorities themselves meet demand through a combination of in-house employees and external interpreting agencies, and the SCTS operates on a national level. As a result, factors such as sources of funding, human resources concerns and practical challenges may differ and, since these were all elements of service delivery that I wished to discuss, the interview content required a degree of variation so that it was possible to obtain the necessary information.

Nevertheless, although there were some variations in the specific questions posed to each interview participant, each discussion followed a similar structure. When requesting each interview, an explanation of my research project was presented to each prospective interview participant in order to provide them with some context and an idea of the kind of information that I would be seeking. There are of course limitations to this approach, which will be discussed further in this section, but in order to arrange to speak with the service providers in question, it was necessary to contextualise my work and give them a chance to gather any materials or data that they felt would be useful, so despite the potential impact on the interview findings, it was required in order to carry out the interviews at all. Notes were taken during all of the interviews carried out, whether they took place in person or by telephone, and in all but one case,²⁹ the interviews themselves were recorded. Ethical considerations of course required that interview participants were asked in advance if they were comfortable with having the interview recorded for my own references and notes, and for the individual who was not comfortable with it, notes alone were recorded during the interview.

As a result, the interview participants all had a sense of the nature of the research when our meetings began, and the discussion started with relatively open-ended questions that allowed them to share any initial comments, observations or questions they might have about the service provision in question or about the research itself. Following this, there

²⁹ One interview was not recorded, at the request of the interview participant.

were a number of questions that centred on the operational elements of the service under discussion; organisational structure, sources of funding, practical factors such as staff numbers, referral systems and monitoring processes, for instance. Once the organisational structure and processes of each service had been discussed, the next focus was the language needs of service users and the demand encountered by service providers. For most of the services included in the research, this portion of the interviews included questions concerning the languages in which support was most commonly required by service users. Where possible, a list of the most frequently requested languages was provided, in addition to discussing how language needs might change over time, according to socio-political occurrences and immigration flows.

The discussion subsequently centred on how language needs were met by each service; interpreting and translation provision, for example, or the role of Bilingual Support Workers in schools. How services are delivered was of great interest and relevance to this research, and this section of the interviews focused on the practicalities of providing language support. The role of legal and policy instruments was also of significance, and the interview participants were asked to comment on relevant legal and policy documents, on the role of any service obligations imposed by them and also on awareness of such obligations within the service. Interview participants were asked about employee training programmes and whether or not information about legislative and policy requirements was included in any such existing programmes. Questions about policy and legislation were included in the interviews because one of the key research questions for this project is the relationship between policy and legal obligations and service delivery at the local level and as such I was particularly interested in the extent to which existing policy and law influences provision.

The interviews concluded with a discussion of any challenges encountered during service delivery, either practical or attitudinal. Gaining an insight into obstacles or complications faced by service providers was one of the central aims of this research project, and as such, this was an important portion of the interview process that afforded me an understanding of not only the practical and resource-related constraints that may hinder provision, but also how attitudes around multilingualism, linguistic diversity and, in many cases, migration and cultural diversity more generally, may influence how provision is both delivered and received.

When discussing the potential impact of attitudinal challenges, the relationship between policy and legislation and provision is significant, as is public discourse in the political and media spheres, because all of these elements help to shape the context in which multilingual provision is developed and delivered. It is therefore important to consider not only more directly relevant examples, such as attitudes present within services and among employees, as well as those encountered among service users, but also the attitudes and ideologies that influence the legislation and policy that to some extent guide local provision. Since the ideologies present in the political sphere can have such significant influences on the development of legislation and policy, on the supranational legal instruments to which the UK is subject, and on practical resources, it is a necessary consideration. Public discourse, and attitudes towards linguistic diversity, in addition to potentially playing a role in political approaches, can additionally impact how the services in question are received, in the sense that such discourse can influence the perceptions of allochthonous language speakers themselves. This may be particularly prevalent in the case of education, as will be further discussed in Chapter Four.

2.2 Self-reflection

2.2.1 Positionality

When reflecting on the research process that informed this thesis, it is important to consider my positionality as the researcher. My chosen method (semi-structured interviews with service providers that took place in person or by phone) allowed me to gain an insight into experiences of multilingual service delivery in my research setting and was a very useful way to explore the potential challenges encountered by service providers. There are elements of this research method that should be discussed critically, however, particularly with regard to my role in the interview process.

Firstly, it should be noted that I am a native English speaker who has never accessed multilingual public services in Scotland. The fact that, while I have been a user of a number of public services (particularly in Edinburgh), I have never used interpreting or translation services in the public sector perhaps means that my position with regard to the specific

multilingual services in question is a little clearer and more impartial. Equally, however, it could be argued that, given my background, I may be less sensitised to the experiences and needs of service users who do not speak the dominant language and, despite the fact that the remit of this research does not extend to the views or experiences of users who cannot engage with services through the medium of English, it is important to acknowledge this. I am, however, familiar with some of the service providers through which this multilingual provision is offered, such as NHS Lothian and the CEC. Additionally, my position as a native speaker of English is arguably relevant given that the selected research setting for this project is one in which English is the dominant and most socio-politically powerful language, and in which the use of languages other than English can be connected to socioeconomic disadvantages and exclusion. These are not factors that were within my power to change, and every effort was taken to prevent any influence on the research itself, but they are nevertheless issues of positionality that should be acknowledged.

Secondly, while impartiality is to be strived for during the research process, it is useful to acknowledge any potential bias or motivation in pursuing the research in question. Every attempt was made to approach the research topic in an open-minded and unbiased manner, but it would be disingenuous to suggest that I was not drawn to the research due to my own favourable attitude towards the inclusive provision of multilingual support in public services. In addition, my motivation for carrying out this research was influenced by an interest in the nature of such services and the identification of any challenges they encounter that have the potential to be mitigated in order to deliver services more effectively. Within the context of the MIME project, of which my research forms a part, the range of research and case studies undertaken by consortium members has culminated in a number of legal and policy recommendations being made to the EC in order to facilitate the promotion of both mobility and inclusion within the EU.³⁰ To a certain extent, therefore, there was a motivation or purpose behind the research that was not entirely impartial, and it was important to be aware of this in order to limit any possible influence on my research, by conducting it as a mapping and evaluation project that focused on current rather than potential provision, approaching interviews as information-gathering exercises in which my views were irrelevant, and reaching my thesis conclusions based on the research findings

³⁰ The consortium published the MIME Vademecum (MIME, 2018b).

themselves, rather than on any existing preconceptions.

2.2.2 Evaluating the research process: challenges and limitations

On a practical note, one challenge when carrying out this research was obtaining access to interview participants due to resource and time constraints that limited the availability of service providers, both staff members and service managers. This did not impede the research process, and the interview participants were all accommodating and generous with their time, but it was nevertheless a practical issue that was encountered. Another limitation of the research concerns the choice of interview participants themselves. When designing this research project, a decision had to be made about the research focus; while it would have been interesting and informative to consider the perspectives of both service providers *and* service users, due to the nature of the research project, it was necessary to select one of these groups to concentrate on. While this inevitably limited the scope of the research, it also made the project more feasible practically, because the participants were fewer in number, more easily identifiable and more accessible, and allowed for a more in-depth exploration of the research setting and topic.

The interviews informing this thesis were restricted to representatives of the public sector organisations in question because the research aimed to discover existing policy developed by those services that was relevant to multilingual service delivery, how such policy had been arrived at (or indeed why policy had not been developed) and how service providers sought to implement any policy that is required by the broader legislative framework. Considering the experiences and perspectives of service users would have been fascinating, but this research did not aim to investigate how satisfactory the implementation of public sector policies was and for this reason I did not seek to obtain the views of service users, either through interviews or through a survey of some kind. There would, of course, also have been resource implications, such as costs, difficulties in identifying non-English speaking service users, and, of course, in obtaining data from them, in addition to potential ethical considerations, to carrying out such research. As previously mentioned, due to the aforementioned focus on legal and policy instruments, it was furthermore decided that interviews with service providers would be the more relevant of the two, since service

providers work within the context of legal and policy obligations when developing and delivering services and therefore the connection between these two aspects of the research project are stronger. Nevertheless, it is a limitation of this research that the perspectives and experiences of service users are not included, and this could be explored in any further research carried out on the topic. Doing so would be useful in evaluating to what extent stated policy is actually implemented.

The research process itself should be considered critically, given that there are limitations to the selected method to be discussed. As mentioned previously, during the process of identifying and approaching potential interview participants it was necessary to provide a certain amount of information about the research and the wider MIME project of which it was a part, in order to contextualise the research when asking service providers to dedicate time to answering my questions. Additionally, the interviews began with another introduction to the research, and subsequently each interview participant had some knowledge of the research in question and the issues I was exploring prior to the interview taking place. While this was of course important in order for service providers to be able to give informed consent to the interviews, and additionally to be able to gather any necessary quantitative data, it should be acknowledged that there is a chance that prior knowledge of both the research context and the general content of the interviews may have had an influence on the answers given by participants. In order to minimise the impact of this, I collected as much service information as was available online prior to the interviews, in order to establish as full an insight as possible, and provided only the necessary details about my research in advance.

Block (2000) highlights the importance of problematising the interview process itself, in the sense of approaching it as an element of the research process that must also be evaluated, analysing this particular method of data collection in order to address any possible limitations or any challenges it may pose, considering the roles of both the interviewer and the interview participant, as well as the data themselves. The nature of the interviews carried out also poses a potential limitation: although a central aspect of this research was investigating the realities of service delivery on the ground, in addition to the connection between legislation, policy and local services, it is important to note that ascertaining the 'reality' of service provision through the medium of individual interviews would be difficult,

due to the potentially subjective nature of such an interview process. There was arguably an anecdotal element to the information gathered during the interviews, since they took place with individual interview participants who spoke of their experiences of working in/managing their respective services. Factual and evidenced information about services was also gathered where possible: the evaluation of service providers' online provision, identification of practical resources that were available to the public and analysis of formal policies and strategies. It should be noted, however, that the interview responses were to some extent subjective.

In a piece of research such as this, the use of interviews as part of the data-gathering process could not provide an objective, factual picture of the 'reality' of multilingual service delivery. The possibility of establishing the 'reality' of service provision would of course be challenging in any case, even if the voices of service users were to be included in research, for several reasons. Firstly, the responses of all interview participants would of course be filtered through their own experiences, perceptions and external factors such as professional considerations, in the case of service providers, and service needs, in the case of service users. Professional considerations among interview participants may include a sense of responsibility for the reputation of the organisation in question and a desire to protect their own professional reputations as officers charged with tasks relevant to multilingual service delivery; in both cases, such concerns could motivate interview participants to answer my questions carefully – perhaps not candidly – in order to avoid potential criticism, either of themselves as individuals or of the department or organisation within which they work. Secondly, while the interviews allowed for an insight into service delivery, there is an extent to which their very nature, in addition to my role as the interviewer, could influence responses. Given that I posed certain questions and gathered particular information during the semi-structured interviews, it is important to consider the interactional element of the interviews and whether or not I played a role in co-constructing or co-participating in the interview participants' accounts of the services in question. There has been some criticism of the use of interviews for this reason: "The basic argument against interviews as a method of data collection is that they produce "unnatural" data since the interviewer influences their production (through questions, interruptions, silences, etc.)" (De Fina and Perrino, 2011: 5).

De Fina and Perrino (2011) note two different approaches to interviews as a research method: interview-as-data-resource, in which interview responses are considered to relatively accurately reflect the reality of interview participants outside of the interview context, and interview-data-as-topic, in which they are treated as depicting a reality that is co-constructed with the interviewer, affected by the presence of the interviewer and the interview participant-interviewer interaction. When the interview-data-as-topic approach is adopted, the viewing of interview responses as co-constructed allows for a discussion of those answers as occurring in response to the questions and comments of the interviewer, as influenced by the particular context of the interview and the interview participant-interviewer dynamic, rather than as necessarily representative of how the interview participant would respond in another context (Block, 2000).

Block (2000) refers to two approaches to analysing interview data, discussed by Kvale (1996): the veridical and the symptomatic. The former approach considers interview data to be as accurate a record of events or experiences as possible, recounted to the interviewer in good faith, while the latter deems the interview participants' responses to reflect their own relationship to the research topic and the context of the interview, more so than reflecting the research topic itself (Block, 2000). Where interview data fall into the latter category, however, this does not mean that the findings are invalid; on the other hand, it can tell the researcher a great deal about the interview participants' perceptions of the research topic (Block, 2000). Indeed, interview data can be viewed as "representational" of events, rather than accurate recordings of them, and as "presentational" of the interview participants themselves (Block, 2000).

In the case of this research, the interviews carried out with staff from Scottish public services are approached as providing some insight into service provision and service delivery, but also into experiences of service delivery, challenges encountered and, as far as is possible, factors that may influence how interview participants responded. The use of quantitative data, secondary sources concerning service provision, in addition to the legal and policy analysis in Chapter Three, facilitate a *more* accurate discussion of the research setting, but it must be acknowledged that a variety of socio-political factors are likely to influence the research findings. This is one reason why attitudes towards allochthonous languages are addressed in this thesis, particularly in Chapter Four, as are the implications

that attitudinal constraints may have on provision and the impact of practical resource constraints. Research does not take place in a vacuum, and in this context, such factors are an element of policy design, service development and service delivery and therefore cannot easily be disconnected from the research process itself.

Another consideration that should be mentioned is the professional context in which the interviews occurred. During interviews that were carried out with staff members, it is possible that responses were influenced by the interview participants' awareness of their professional positions and potential ramifications if they spoke critically of the service with which they were associated. Equally, where the interviews were instead with service managers, a different but possibly equally influential awareness of their role as manager – as individuals who were to some extent responsible for service development and delivery, and as accountable for those services and for their interview responses – may have affected their answers to my questions. As previously mentioned, one of the ethical considerations taken into account was being transparent about the research process and asking each interview participant if they were comfortable with the interview being recorded and with the possibility of being quoted in the course of this thesis. For the most part, the interview participants gave their permission for both, but in a couple of cases, requested to be kept anonymous and for their interview not to be recorded. These wishes were of course respected, but it is worth noting that in some cases, interview participants were not comfortable with the possibility of having their comments professionally associated with them. This may be indicative of a degree of caution from the interview participants in question about speaking openly if there were potentially identifying details included in the research and, indeed, there is also a risk that those interview participants who *did* consent to our conversations being recorded spoke less frankly as a result.

The previously mentioned approaches highlighted by Block (2000), Kvale (1996) and De Fina and Perrino (2011) are relevant to this research because of the issues raised in this section. There are arguably certain limitations to the interviews carried out as part of this research, mostly concerning the fact that the interview participants' responses are influenced by a range of factors, from the interview context itself to professional considerations, but this is not necessarily a drawback to the research or to its findings, as long as these limitations are taken into account and considered when discussing the research data. For instance, it is

important to present information obtained in the interviews as the interview participants' perceptions or reporting of service provision, rather than as objective fact, and to discuss them in light of other research findings, such as policy analysis. Indeed, the potential impact of such factors on the responses of interview participants in this research may in fact allow for a richer discussion of the research topic, because the *experience* of service delivery and *attitudes* towards linguistic diversity and service provision are relevant to this research. The experiences and attitudes of the interview participants themselves can therefore form part of the discussion of the research data, analysing the interview findings using the interview-data-as-topic and symptomatic approaches that allow the responses of interview participants to be considered as representational.

2.2.3 Quantitative data sources and their limitations

Several quantitative data sources were used in the course of this research, for a range of purposes. When discussing the recent UK census data in Chapter One, the figures were used in order to contextualise the research, to clarify the linguistic composition of the research setting and also to explore attitudes towards allochthonous languages in the UK. The Scottish School Statistics (Scottish Government, 2016a, 2016b, 2019a, 2019b, 2019e, 2019f) also provided relevant information about linguistic diversity and bi/multilingualism in Scottish public schools. The gathering of such language-specific information in itself is indicative of an awareness of language-related issues in schools. Results from the Scottish Social Attitudes Survey 2015 (Scottish Government, 2016c) similarly offered an indication of public opinion concerning language teaching in Scottish schools, which offered an interesting perspective with regard to the discussion of public schools in Chapter Four.

Nevertheless, while all of these sources of data presented relevant and noteworthy information, they may have certain limitations. It is worth noting, for example, that the use of census data poses challenges (Logan, 2018). Census responses, for example, are self-reported and subject to individual interpretations, which with regard to identity markers have been described as “not without problems, such as inconsistent reporting and misreporting” (McKenney and Bennett, 1994: 19). They therefore should not be assumed to be entirely accurate, particularly when it comes to data concerning language ability:

“Collecting information collected (sic) on language skills does involve subjective assessment and so people may not report their skills in a consistent or comparable way, particularly when a variety of interpretations are, or can be applied to a language” (NRS, 2015c: 19). The census results concerning proficiency in English (see: Tables 3, 5 and 6), for instance, are relevant to this research, since the public service provision in question has developed in order to meet the needs of service users who are not competent in English. It should be noted that, while useful, these figures, too, may not be entirely reliable: because they are derived from census data, the stated proficiency levels are self-assessed, subjective, without reference to or foundation in standardised language proficiency scales, such as the Common European Framework of Reference for Languages (CEFR), and may not be entirely candid. In addition, the findings of the 2011 Census may now be outdated: for a fuller picture, more frequent data collection may be necessary (Skinner, 2018). Furthermore, issues related to under enumeration in demographic data may have implications for public services, because “[d]istinct social and geographical patterns in this missed population have the potential to bias both research and policy uses of the data, through distortion of rates for population subgroups and the misallocation of public resources” (Martin, 2010: 2753). It has been argued that there are political factors to consider – that censuses co-construct social reality rather than objectively reflecting it (Kertzer and Arel, 2002) and are influenced by discourses related to race, citizenship and inclusion (Thompson, 2015) – which will not be addressed in detail in this thesis but are nevertheless noteworthy.

The data itself should therefore be regarded with an awareness of these limitations: treated as indicative of language composition, alongside other data sources (such as interpreting service demand), rather than as comprehensive fact. Census findings need not, however, be dismissed due to the aforementioned issues, because the statistics in question do provide helpful insights into linguistic diversity in the UK and its consequences in terms of inclusion. Furthermore, now that questions concerning language use are included in the UK censuses, it will be possible to analyse this in greater depth in future years. This will be particularly significant given the previous lack of national data concerning the linguistic composition of the UK that was noted in Chapter One. Over time, the results of different censuses will also allow for the monitoring of speaker numbers across language communities and therefore

for discussion of any future shifts in the language composition of Scotland that may occur, in addition to the implications of such shifts for public service provision.

The Scottish School Statistics are collated every year from the enrolment information collected by public schools. A wide range of data is gathered relating to class sizes, funding and pupils' characteristics; the latter includes several language-related categories, including L1s and additional support needs (with which the number of EAL pupils is listed). The statistics are therefore pertinent to this research, since one of the aspects of multilingual service provision considered here is linguistic support in Scottish public schools.

Nevertheless, there are a number of potential issues with the figures relating to L1s, due to socio-political attitudes towards languages in the UK – both allochthonous languages and the status of English. Since the Scottish School Statistics figures concerning L1s are drawn from enrolment information provided by pupils' parents/guardians, the information provided should be viewed accordingly. In addition to being another example of self-recorded and self-assessed responses, answers may be influenced by negative perceptions of linguistic diversity – and of allochthonous languages in particular – that can affect the value attributed to allochthonous languages by speakers themselves. As will be discussed further in Chapter Four, sometimes English is inaccurately stated as the L1 on a pupil's enrolment form due to parents' concerns that acknowledging an allochthonous L1 may disadvantage their child at school. It was therefore important to acknowledge such attitudinal issues and their potential impact on perceptions of allochthonous languages by their own speaker communities and also on their intergenerational transmission.

Finally, the 2015 Scottish Social Attitudes Survey (Scottish Government, 2016c) should be addressed. The results of this survey were drawn from the responses of 1,288 adults in Scotland, who were selected using random probability sampling, and who responded through a combination of face-to-face interviews and a self-completed portion of the research. The findings, which will be discussed in Chapter Four, illustrate common public opinions concerning language, relating to language competency in languages other than English and also the perceived value of various languages and groups of languages with regard to education in Scotland. Such findings highlight the relative lack of language skills within the Scottish population in addition to existing language hierarchies in the public sphere, both of which are relevant to the research setting in question. The results included

in this thesis are from the Scottish Social Attitudes Survey in 2015, which means that, while still of interest, they are not up to date. There has been a number of socio-political events between 2015 and 2019 that may have had some influence on attitudes towards different language groups and on the value attached to them by respondents. The results of the research should therefore not necessarily be considered wholly accurate with regard to 2019. The 2015 Scottish Social Attitudes Survey data are, however, a relatively recent data set concerning attitudes towards languages, so they remain pertinent to this research, as long as they are discussed with these limitations in mind.

Finally, it is noteworthy that these sources of data concerning languages and attitudes towards languages are available, given the previously mentioned lack of linguistic data available on a national scale in the UK. So, while it is necessary to highlight the potential issues with such data, their value should also be acknowledged. None of the above discussion intends to suggest that the data sources in question should be dismissed or overlooked; they each provide an insight into and useful information about the research setting, both in terms of linguistic composition figures and attitudes towards different languages. It is nevertheless important to be aware of and acknowledge the possible limitations of such data sources, in order to use them appropriately.

2.2.4 Evaluating the methodology

This chapter details and evaluates the methodology selected for the research in question, expanding on the chosen research setting, contextualising the legal and policy analysis that is the focus of Chapter Three and the service providers that will be discussed in greater detail in Chapter Four. For the purposes of this project, both the legal and policy norms that guide public service provision and their implementation were relevant, in order to more fully understand language-related practices in key Scottish public services. Additionally, Chapter Two critically addresses a range of potential limitations pertinent both to the quantitative data used in this thesis to illustrate the linguistic composition of the research setting and to the qualitative research methods that led to the discussion in Chapter Four. While the subjectivity of the semi-structured interview format is acknowledged, and addressed wherever possible, it is nevertheless important to be aware of how this may

influence the research itself. The interviews with service providers that will form part of the analysis in Chapter Four are approached as a valuable source of information, not just regarding service delivery itself, but also the experiences of service providers in meeting the language needs of the populations they serve. In order to balance some of the issues raised in section 2.2.2, the interview findings form only part of the evaluation of multilingual provision, alongside the analysis of policy and strategy documents and discussion of practical support available online. Similarly, the quantitative data presented at various points in this thesis assist in understanding the language needs of the populations in question, but have been included with the understanding that some of the sources in question – notably, the 2011 census data – come with certain limitations and should be considered to be an indication of Scotland’s linguistic composition rather than as comprehensive and accurate statistics.

Chapter 3: The legal and policy frameworks within which Scottish public service providers operate

3.1 Legal and policy norms

In order to understand and evaluate the multilingual services that exist at the local level in Scotland, and their implications for mobility and inclusion, it is necessary first to analyse the legal and policy frameworks within which this provision has developed. Such frameworks have been introduced by a range of political institutions and establish norms and obligations to which public bodies are subject. In order to realise the research aims that were highlighted in Chapter Two (clarifying the legal and policy norms that guide provision), a comprehensive analysis of all relevant legal and policy norms established at the international, UK, and Scotland-wide levels will be undertaken here. This chapter will first consider treaties and legal instruments that have been established by international bodies (such as the EU, the CoE and the UN), before discussing legal obligations created by the UK Parliament and by the devolved institutions in Scotland.

3.1.1 International norms related to language and equalities

There are a number of political factors that may have implications for UK law with regard to equalities issues, some of them language specific. One such factor, mentioned previously, is of course the UK's currently uncertain relationship with the EU, which may pose questions concerning EU law to which the UK is subject. Additionally, however, decisions taken by political actors in the UK can have consequences for domestic law connected to other supranational bodies, such as the CoE. In the context of equality law, a significant example is the *Human Rights Act 1998*, which incorporated the CoE's ECHR into UK law. There has been criticism of the *Human Rights Act 1998* within the Conservative Party, who currently form the UK Government, for some time: the 2015 Conservative Party manifesto stated an intention to abolish the *Human Rights Act 1998* and break the link between British courts and the European Court of Human Rights (the ECtHR) (Conservative Party, 2015: 60). The most recent Conservative Party (2017: 37) manifesto contained a more ambiguous statement with regard to the *Human Rights Act 1998*: "We will not repeal or replace the

Human Rights Act while the process of Brexit is underway but we will consider our human rights legal framework when the process of leaving the EU concludes. We will remain signatories to the European Convention on Human Rights for the duration of the next parliament”.

Nevertheless, both the ECHR (CoE, 1950) and the *Human Rights Act 1998* remain binding in the UK at present and are relevant to the language and equalities issues being discussed in this thesis. Both legal instruments will therefore be discussed. As mentioned previously, the *Human Rights Act 1998* incorporated the ECHR into UK law. It did not, however, bring every aspect of the ECHR into force in domestic law, because later convention provisions were established in protocols to which the UK is not subject. The example of this that is most relevant to this research is the ECHR’s Optional Protocol No. 12 (CoE, 2010a), which the UK has not yet signed or ratified (CoE, 2019) and which therefore does not create any legal obligations for the UK. The protocol (CoE, 2010a, Protocol No. 12, Article 1(1)) included a general prohibition of any discrimination on the grounds of a range of listed identity markers, several of which (language, association with a national minority and national origin) are particularly relevant to linguistic and cultural minorities, and additionally stated that: “No one shall be discriminated against by any public authority” (CoE, 2010a, Protocol No. 12, Article 1(2)) on those grounds. While this does not establish any direct or specific obligations for public authorities in terms of actions or measures, it arguably establishes an indirect responsibility to respect and accommodate those holding the listed identity markers, which include language. The ECHR thus obliges those states that have ratified this Optional Protocol (CoE, 2010a, Protocol No. 12, Article 1(1)) to protect linguistic minorities from discrimination and, unlike a number of other supranational legal instruments that have been designed to protect autochthonous languages, the ECHR does not differentiate between types of languages.

Although the UK has not ratified Protocol No. 12, the *Human Rights Act 1998* did incorporate the specific legal rights set out in the body of the ECHR itself into domestic law, including its prohibition of any discrimination on the grounds of the aforementioned identity markers (language, association with a national minority and national origin) that would interfere with the enjoyment of other rights protected by the ECHR and any relevant protocols (CoE, 1950, Article 14). Article 14 is therefore one provision to which the UK is

bound, and which is “enforceable in domestic law against public authorities” (Dunbar, 2006: 186). The ECHR therefore provided a legal framework within which speakers of allochthonous languages must be able to enjoy the rights that it established, free from discrimination on linguistic grounds and, given the tendency within UK domestic law to overlook language issues (McLeod, 2008), this is noteworthy. Article 14 is therefore certainly relevant to my research, as it has implications for public services in the UK and their approach to language issues, where those issues involve the enjoyment of some other right, such as the right to a fair trial, the right to education, and so forth. Examples of pertinent provisions that could bring aspects of public service provision within the scope of Article 14’s application include: the language-related rights of those involved in criminal justice system proceedings (CoE, 1950, Article 5, paragraph 2, Article 6, paragraph 3(a), Article 6, paragraph 3(e)) which will be discussed later in this chapter and which were established in the body of the ECHR, the right to education that was set out in the first Optional Protocol (CoE, 1950, Protocol, Article 2), and Article 8 (CoE, 1950), which relates to the right to private and family life, and has been interpreted relatively broadly. Several explicitly language-related rights, including recourse to an interpreter during court cases, are thus established in the UK due to the relationship between the ECHR and the *Human Rights Act 1998*, with potential scope for the application of other ECHR provisions to language, due to Article 14 (CoE, 1950) and also in the event of any future ratification of Protocol No. 12 (CoE, 2010a) by the UK.

Beginning this analysis of language-related legal and policy norms with those established at the supranational level of governance, it should first be acknowledged that, as mentioned, there are a number of language-specific frameworks relevant to autochthonous languages in Europe, such as the FCPNM and the ECRML. Both were established by the CoE and set out obligations for states concerning any national minorities and autochthonous languages, respectively, present on that state’s territory. The ECRML’s explicit exclusion of “languages of migrants” (CoE, 1992, Part 1, Article 1a) suggests a hierarchical approach to minoritised languages, in which allochthonous languages are afforded a “lower status”, while autochthonous languages are given a “privileged position” (Gundara and Sharma, 2010: 99). The exclusion of allochthonous languages from the instrument’s provisions seems somewhat anachronistic, a “simple bifurcation” (Dunbar, 2010: 181) that does not take into

account the diverse reality of modern Europe, or the fact that allochthonous languages are not only spoken by migrants; many have become well-established in European states and are spoken by European nationals, who were either born in European states or are naturalised citizens. The ECRML aims to protect threatened autochthonous languages in Europe, so this is perhaps inevitable, but the distinction drawn between autochthonous and allochthonous languages by the ECRML nevertheless suggests a rather traditional understanding of European identity and cultural heritage that relies on territory, and raises “some obvious equality issues” (Dunbar, 2010: 181).

Given that both supranational and domestic legislation exists in relation to the protection and promotion of autochthonous languages and, in the case of the ECRML and the FCPNM, the value of cultural diversity is foundational to such provisions, it is difficult to argue that similar principles do not also apply to allochthonous languages. While the contexts in which they exist differ, allochthonous languages nevertheless contribute to cultural diversity, and the lack of current legislative protection for them (Dunbar, 2006) seemingly represents a form of exclusion. If, according to the principle of “substantive, difference-aware equality”, legislative protection is necessary, and if the principle of non-discrimination requires that, where such protection exists for certain languages, similar provisions be developed for others, allochthonous languages should surely also be supported in this way (Dunbar, 2006: 195). Many of the same principles that oblige autochthonous language protection, such as substantive equality and the protection of cultural diversity, also apply to allochthonous languages and their speakers (Dunbar, 2006). While “reasonable and objective” criteria (UNHRC, 1999, *Waldman v. Canada*) may determine the necessity, or indeed the nature, of provision in relation to specific cases, applying legislative protection to certain languages but not to others would appear to at the very least frustrate equalities obligations to which the UK is bound.

This is particularly relevant to this research in that allochthonous language speakers who cannot access public services through English face linguistic barriers to full participation in the state – which cannot be fully mitigated by longer-term strategies to promote English language learning – and are likely to experience exclusion if language support is not provided (Dunbar, 2006), which contravenes rights established internationally. Supranational instruments to which the UK is subject require states to promote

participation in the state for minority communities – for instance, Article 15 of the FCPNM (CoE, 1995) obliges states to facilitate the participation of national minorities in public affairs, economic, social and cultural life and, although no specific measures are included, assisting the development of English language skills is one possible approach (Dunbar, 2006). Article 14 (CoE, 1995) additionally provides that education in or through the medium of languages other than, in this case, English, should not interfere with its acquisition. The obligation to foster participation carries implications for public services and the attendant issues of equality and inclusion for those who cannot access them through English, and yet few specific international requirements exist and there is little in UK domestic law to guide provision (Dunbar, 2006). Services related to education, for example, are therefore developed not “under any particular statutory obligation, but administratively”, which results in a lack of “a coherent and comprehensive policy” (Dunbar, 2006: 188), which will be explored further in Chapter Four.

Nevertheless, allochthonous languages do appear to be excluded from the ECRML’s implementation and therefore, while both it and the FCPNM are significant in terms of language issues in Europe, they will not be discussed in detail here. To conclude this section, however, it should be noted that there is potential for the inclusion of allochthonous languages under the UK’s FCPNM obligations. The instrument itself does not define the term ‘national minority’, leaving signatory states to determine their own interpretation. In the case of the UK, ‘national minority’ is not an established term in domestic law and so the scope of the FCPNM was applied to ‘racial groups’ (CoE, 1999, Part 1(2)), a term used in the *Race Relations Act 1976*, which has since been consolidated into the *Equality Act 2010*. As previously mentioned, ‘ethnic or national origins’ are explicitly included in that legislation’s ‘race’ category, and *Mandla v Dowell Lee et al* ([1983] AC 548) establishes the relevance of language to understandings of ethnicity. The UK’s “broad”, “inclusive approach” was noted by the FCPNM’s Advisory Committee (CoE, 2002: 6, Article 3(14)). In a subsequent report, however, it was noted that “language as a ground for discrimination under the notion of “race” is still missing from the Equality Act 2010” (CoE, 2017: 11, Article 4(25)). A more inclusive approach is possible, as highlighted by the Advisory Committee, and the aforementioned discussion illustrates that the application of such instruments and principles to allochthonous languages and their speakers would uphold supranational

equalities norms to which the UK is subject.

3.1.2 International law and migration

For some time, in European societies in which linguistic diversity is present, a certain degree of significance has been placed on the role of official languages. The nation-state building process that took place in many European countries often included the elevation of a particular language variety that became deliberately associated with concepts of nationality and group membership, alongside the marginalisation of other linguistic varieties, as part of a homogenising process in the pursuit of “the central requirement of nation-states: cultural and linguistic homogeneity” (May, 2012: 6). Such processes raised the status of the highly valued linguistic varieties and often led to them being positioned as national languages and/or being formally established as official languages. The marginalisation of autochthonous European languages (in addition, often, to dialects) in this period in many cases had negative implications for them and led to declines in their perceived status and socioeconomic value and, over time, in speaker numbers (May, 2012).

The increasingly common connection drawn between official or dominant state languages and identity also has implications for contemporary contexts. This is not simply because work is still ongoing to revive and revitalise many autochthonous European languages that were threatened in part due to marginalisation during the nation-state building process, but also because the status ascribed to official state languages in multilingual contexts persists. Contemporary immigration processes and increased linguistic and cultural diversity within the EU poses questions about identity and socioeconomic inclusion; discussions that do have a linguistic component. In discourse concerning immigration, it has become increasingly common to see a focus on competence in the official languages of host states, as well as connections drawn between these languages and group membership.

International law has established few standards with regard to language and migration, although there are a few of instruments of relevance, such as *the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* of 1990 (United Nations General Assembly (UNGA) Res. 45/158). However, this instrument has not been ratified by any EU member states, and therefore imposes no obligations or

standards in the EU. General principles of international human rights law are applicable to EU member states, however, and do indicate that any language requirements established must be proportionate.

The concept of proportionality is an important one in human rights law and is central to numerous significant international rights treaties (Engle, 2012), such as the ECHR and the ICCPR. In order for a state to place restrictions on any right, several conditions must be met: any potential restriction must be set out in law, must be justified by the pursuit of a particular public policy objective (such as public safety or the protection of others' rights and freedoms) and must be needed in a democratic society: "the proportionality principle requires some articulable relationship between means and ends, specifically that the means chosen by an administration be suitable or appropriate, and no more restrictive than necessary to achieve a lawful end" (Steinhardt, 1994: 231). The latter criterion is the condition to which proportionality is related: the restriction of a right is not considered to be necessary (proportionate) if the policy goal in question could be achieved by means which either do not contravene, or which infringe to a lesser extent, a basic right (Steinhardt, 1994).

Although arguments in favour of legislation that supports minoritised languages are often justified on cultural and/or ethical grounds, for instance due to the cultural significance of such languages or concerns about declining intergenerational transmission, or on equality grounds, the actual obligations imposed by legal and policy frameworks concerning language provision tend to include conditions that are broadly economic or practical in nature (see Dunbar, 2001; Morawa, 2002). These conditions may differ according to the types of languages in question (autochthonous and allochthonous language provisions may be subject to different considerations, for example), but qualifications or constraints in place regarding public sector provision are likely to be practical in nature: "the provision of services in a national minority language may have substantial resource implications" (Holt and Packer, 2001: 117).

In contrast, while certain conditions may be applied to other civil and political rights, these tend to relate to the aforementioned concept of proportionality: the rights are restricted only as necessary to achieve a significant public policy goal (Steinhardt, 1994), rather than to economic concerns, such as human resource constraints or the cost of providing services, as

is often the case for rights and protections that are relevant to language. Arguably, the inclusion of economic considerations when setting out language-related rights is due to the financial and resource implications of providing linguistic support and education, but given that such costs could also be attached to other rights of this nature, it is notable that they tend to be framed in this way. It could be argued that this approach engages the ‘topos of burden’ (Wodak and Boukala, 2015) by foregrounding the economic implications of language-related rights and provision in the very legislative framing of those rights. Holt and Packer (2001: 117) additionally noted that “economic and financial considerations are arguably over-stated in these cases” and that strategies such as the recruitment of bilingual staff can mitigate such constraints.

In the context of this research, an example of economic framing with regard to language provision at the supranational level is Directive 77/486/EEC, because it establishes an obligation on EU member states to provide the children of EU migrants with free language tuition and frames the established obligations in terms of EU migration processes and socioeconomic inclusion, both in the host state in question and in the parents’ state of origin. As such, although to a certain extent there is a link between linguistic competence (in both a dominant language of the host state and in a language of the parents’ state of origin) and inclusion, the explicit connection between language competence, labour migration processes, including return migration, and socioeconomic integration does suggest an economic consideration. Furthermore, several relevant rights set out in the FCPNM (CoE, 1995) are qualified: under Article 10(2), states should “endeavour to ensure, as far as possible, the conditions which would make it possible” for national minorities to communicate with administrative authorities in their own languages, while according to Article 14(2), they must, “if there is sufficient demand, [...] endeavour to ensure, as far as possible and within the framework of their education systems,” minority language provision in education.

In terms of public services in Scotland, the multilingual provision being discussed in this research is framed in, if not explicitly economic, then pragmatic terms: provision is often developed in a rather ad hoc, location-specific manner, according to service demand and practical concerns. Services such as the provision of interpreting and translation in healthcare settings and local authority departments, for example, are developed to respond

to the practical needs of service users and to facilitate access to essential services, rather than motivated by a cultural concern or an ethical consideration regarding the value of languages or their maintenance. There are, however, arguably ethical considerations of a different manner at play in the facilitating of access to core services for those who cannot access them through the medium of English, in addition to the legal considerations noted in this chapter. Multilingual public service provision may, it seems, be motivated not by sociocultural value ascribed to allochthonous languages, but by equalities considerations and the need to facilitate access to essential services, thereby minimising the chance of exclusion resulting from a lack of language competency.

In the context of language requirements imposed by states, according to the concept of proportionality, such requirements must be non-discriminatory and therefore must not disadvantage certain groups of migrants over others. Given that, as will be discussed in more detail in section 3.4.1.3, language requirements appear to disproportionately disadvantage several vulnerable groups (Migrant Integration Policy Index (MIPEX), 2015), they do not appear to fulfil the requisite criteria for proportionality. Differing norms have been established in the EU with regard to immigration, according to whether migrants are EU citizens or non-EU citizens. Due to the EU's principle of the freedom of movement for EU workers, it is possible for citizens to move between EU member states without being subject to the legal norms that apply to non-EU migrants. This principle of freedom of movement for EU citizens is set out in Articles 20(2)(a) and 21 of the *Treaty on the Functioning of the European Union* (OJEU, 2012a), and is also included in Article 45 of the *EU Charter of Fundamental Rights Union* (OJEU, 2000). The right to freedom of movement is a key element of EU law and was clarified by *Directive 2004/38/EC* (OJEU, 2004a). As a result of this particular principle and its incorporation into EU law, EU citizens are not affected by any language requirements established by the state at the point of entry, although they are equally subject to such requirements if they constitute part of the citizenship process. They may also be required to meet linguistic requirements in order to access certain employment opportunities, either due to the particular constitutional position of a language (Court of

Justice of the European Union (CJEU),³¹ 1989) or to the nature of the work (CJEU, 2000) – the latter case clarified the importance of proportionality, however (CJEU, 2000, para. 60).

EU citizens who, through freedom of movement, relocate to other member states, do not necessarily have the right to access services through the medium of their own language. Several pieces of EU law have, however, provided for the right of EU migrant workers to engage with the authorities and institutions of another EU state in their own language, if that language is an official language of the EU: *Regulation 1408/71/EEC* (CoEU, 1971), and particularly Article 84, paragraph 4; following the latter's repeal, *Regulation 883/2004* (European Parliament (EP) and CoEU, 2004), Article 76, paragraph 7 in particular; *Regulation 987/2009* (EP and CoEU, 2009), and the *Farrauto v. Bau-Berufsgenossenschaft* case (CJEU, 1975). Under *Directive 2010/64/EU* (OJEU, 2010) and *Directive 2013/32/EU* (OJEU, 2013) states must provide interpreting and translation services in criminal proceedings and during the asylum process respectively, but *Directive 2011/24/EU* (OJEU, 2011a) only establishes the option to provide healthcare information, not services themselves, in the official languages of other EU states, which, given the nature and necessity of healthcare, seems insufficient in comparison. In the aforementioned *Salomone Haim v Kassenzahnärztliche Vereinigung Nordrhein* case (CJEU, 2000), the CJEU allowed for necessary skills in the official language to be required for dentists, but noted that it was in the interests of speakers of other languages for dental care to be available in their own language (CJEU, 2000, para. 60). This suggests a need for EU legislation to require service provision in key sectors (healthcare and welfare, for example) in allochthonous languages. While multilingual provision has been developed at the local level, as Chapter Four will explore, and there is perhaps growing awareness of the need for this among Scottish public sector bodies and political institutions, this is an important equalities issue for EU citizens that requires legislative action from the EU.

While the aforementioned laws and cases establish limited rights for EU workers to submit or request certain information in their own language, this only applies to official languages of the EU, and only to EU citizens. The position of migrants from outside of the EU differs. Immigration law, for instance, that is applicable to migrants from outside of the EU is

³¹ Previously the European Court of Justice (the ECJ).

determined at the individual state level and tends to engage language through conditions that require the demonstration of competence in a state language at certain stages in the migration process. For non-EU migrants who have become established as long-term residents in one EU member state and subsequently move to another one, according to Article 5, paragraph 2 of *Directive 2003/109/EC* (OJEU, 2004b), it may also be necessary to meet any language requirements established by the second host state. The use of language requirements within state immigration processes has become more common within the EU,³² applied at various stages of the immigration process for non-EU migrants, for example at the point of entry into the state and during processes to obtain permanent residence or citizenship (Strik et al, 2013; Wodak and Boukala, 2015). In 1998, for instance, six states had introduced citizenship and/or language tests, whereas by 2013, 23 states had adopted such policies (Bauböck and Wallace, 2012; Wodak and Boukala, 2015).

Official EU principles establish linguistic diversity and multiculturalism in Europe as an aspect of cultural wealth which is to be safeguarded and promoted (CoEU, 2008). The increasing use of such language requirements, however, suggests not only that EU member states are becoming progressively more prescriptive with regard to migration from outside the borders of the EU, but also indicates a limited understanding of and value accorded to multilingualism in practice (Gal, 2010, cited in Wodak and Boukala, 2015). The development of this linguistic dimension in the immigration process for non-EU migrants is also inconsistent (Böcker and Strik, 2011) with the European Council's (EuCo) 1999 declaration that, through "a more vigorous integration policy", the EU would improve the rights of non-EU migrants so that they became "comparable" to those of EU citizens (CoEU, 1999, A(III), 18). Member states have in fact moved in the opposite direction and it has been argued that this has occurred with the support and justification of the EU, particularly with regard to irregular migration³³ (Wodak and Boukala, 2015). *Directive 2003/109/EC* permits member states to restrict the equal treatment of non-EU migrants in certain circumstances, which explicitly include instances where states require "proof of appropriate language proficiency

³² See Wodak and Boukala's (2015: 259) table charting the language and citizenship requirements established in a selection of EU member states in 2009 and in 2013, which illustrated the increasingly restrictive policies employed in the form of language requirements.

³³ Irregular migrants have been identified as those who "lack the required documentation to travel legally from one place to another" (Wagner, 2013: 2), who enter a state "without a visa, entry clearance or leave to enter or remain and [... have] not claimed asylum", for example (Canton and Hammond, 2012: 6).

for access to education and training” (OJEU, 2004b: Article 11, 3(b)), while Article 15 states that those non-EU migrants for whom language requirements were not part of acquiring residency rights “may be required to attend language courses”. Wodak and Boukala (2015) characterised such provisions as utilising language competence as “a tool that legitimizes the exclusion” of migrants from outside the EU and highlighted the fact that *Directive 2011/51/EU* extended the scope of *Directive 2003/109/EC* to “beneficiaries of international protection” (OJEU, 2011b) which, while it relates to the acquisition of long-term residency, also applies the same language-related provisions.

Restrictive approaches have been argued to have negative consequences for non-EU migrants and for refugees, however. A report published by Amnesty International (2014: 25) about the role of Greece as the border to Europe highlighted the role of the EU (and its member states) in requiring Greece to guard and police its borders in a restrictive way and in providing “significant financial and material support” to this end. The report noted Greece’s decision “to prioritize the security of EU borders over the lives of migrants and refugees flows from the EU’s wider policies” and stated that the “EU’s migration policy is heavily tilted towards the deterrence and prevention of irregular migration rather than mobility and protection in Europe for third country nationals” (Amnesty International, 2014: 25, 24). It was argued that the construction of ‘Fortress Europe’, while “officially constructed” to prevent entry by irregular migrants, also poses barriers to refugees (Amnesty International, 2014: 24). There has been significant criticism by humanitarian and charity organisations of the EU’s response to recent refugee flows, which:

is forcing [refugees and non-EU migrants] to take ever more hazardous routes [...] Policies that fail to strike the right balance between border controls and the rights of refugees and migrants not only lead to human rights violations, they are also ineffective (Amnesty International, 2014: 24).

In the UK, the circumspect response of the government to refugee movements has been criticised and a national campaign coordinated by a range of organisations, including Save the Children, Amnesty International UK, Refugee Action, Avaaz and 38 Degrees, presented a “1.4 million welcomes for refugees” petition to the UK Government, which prompted a commitment to welcoming 20,000 more Syrian refugees into the UK (Dathan, 2015).

3.2 Language-related rights in international law

Certain supranational bodies such as the UN have enshrined rights and protections relevant to linguistic identity, which do provide a framework in which states party to the treaties in question should operate, but often do not impose specific measures or actions on states; such human rights conventions focus on the protection of fundamental rights, rather than the mechanics and practicalities of how this might manifest within society. Article 30 of the CRC (UN, 1989), for example, explicitly establishes the right of children belonging to ethnic or linguistic minorities to enjoy their own culture and to use their own language. This article does specifically refer to this right in relation to enjoying it “in community with other members of [the child’s] group” (Article 30), however, which perhaps implies its application to the enjoyment of minoritised cultures and languages within those communities themselves, rather than framing it as a right in interaction with and within the context of the dominant cultural or linguistic community. Indeed, the webpage dedicated to Article 30 (UN, 1989) on the Children and Young People’s Commissioner Scotland (2019) website summarises it as follows: “children and young people who belong to a minority group have the right to share their culture, language and religion *with other people in that group*” [own emphasis].

The ICCPR (UN, 1966a), which will be discussed in more detail below, includes Article 27, upon which Article 30 of the CRC (UN, 1989) is modelled³⁴ and which took a broader, more inclusive view on the issue. For instance, the *General Comment Adopted by the Human Rights Committee Under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights (General comment No. 23)* noted that Article 27 of the ICCPR (UN, 1966a) enshrines the rights of those belonging to minorities who “exist” in a state and that, “[g]iven the nature and scope of the rights envisaged under that article” (UN, 1994: 2), the permanence of their presence in the state in question does not have a bearing on the protection granted by that article. The rights are conferred regardless of status: “[j]ust as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be

³⁴ Article 27 of the ICCPR (UN, 1966a) states that people belonging to minorities must be free to speak their own language and enjoy their own culture, among other things, within their communities (UN, 1994).

denied the exercise of those rights” (UN, 1994: 3). *General comment No. 23* (UN, 1994: 3) further observed that the “right of individuals belonging to a linguistic minority to use their language among themselves, in private or in public” is distinct from other language-related rights enshrined by the ICCPR (UN, 1966a), such as the general right to freedom of expression, that states are required to ensure that this right is protected and that they are obliged to implement “positive measures” in order to do so, which may also be necessary “to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language [...], in community with the other members of the group”. Article 30 of the CRC (UN, 1989), on the other hand, appears to focus primarily on children belonging to autochthonous minorities, although, given the nature of the CRC itself, there may be scope for a more universal application of Article 30. While highlighting the specific references to “indigenous children” (UN, 2009b: 1) within the CRC, the Committee on the Rights of the Child acknowledged in its General Comment No. 11 (UN, 2009b) that “all the rights contained in the Convention apply to all children, whether indigenous or not” (UN, 2009b: 1).

With regard to allochthonous languages, very few explicit norms have been established by international law. As a guiding principle, the need for proportionality when any language requirements are introduced is indicated by the general principles of human rights law, to which all EU member states are subject. In the context of language policy, “the measures adopted [...] must be proportionate to the objectives of the language policy pursued” (Nic Shuibhne, 2001: 64). Within the EU, while the implementation of language rights and policies is considered to be the responsibility of individual member states, there are mechanisms in place for monitoring this. Where EU law is concerned, for instance, the CJEU plays a role, evaluating the practices of member states when core principles such as freedom of movement are engaged to assess those practices in relation to the standards of proportionality and non-discrimination (Nic Shuibhne, 2001: 72). While language policy choices that affect the private sphere may be introduced by states in the name of public order, national security, public health or morals, or the rights and reputations of other people, any constraints placed by states on language use in the private sphere must be proportional to the policy objective (Holt and Packer, 2001). The unnecessary imposition of language preferences in the private sphere, or other such interventions, can cause tensions

between the state and minoritised linguistic communities and also contravene several significant standards established by international law, such as freedom from discrimination, freedom of expression and the right to family and private life (Holt and Packer, 2001).

The EU and supranational bodies more generally do tend to take a deferential position with regard to state language policy decisions, however, provided that the aforementioned principles of freedom from discrimination, freedom of expression and the right to family and private life are respected by the state policies in question. For example, in cases such as *Podkolzina v Latvia* (ECtHR, 2002), while the ECtHR was critical of how the Latvian language competence of candidates for public office was tested, it nevertheless ruled that the policy itself (requiring Latvian language competence in those circumstances) was reasonable. With regard to EU laws, the CJEU has determined that an EU member state was justified in imposing a language requirement in the labour market, regardless of the fact that the language in question (Irish) was not necessary for that particular employment and was a minoritised language (CJEU, 1989, *Groener v Minister for Education*). Despite being spoken by a minority of the Irish population, Irish is nevertheless recognised as the national and first official language by the Irish Constitution of 1937 and thus, although enforcement of the Irish language competency requirement restricted access to a particular employment, thereby indirectly affecting Groener's mobility rights, the CJEU ruled that the language requirement was legitimate.

The tradition of deference to state language policy choices does not extend to situations in which such choices would infringe on standards enshrined in international human rights law. Within the EU, while states do have autonomy in forming their own domestic language policy to a certain extent, this does not extend to language policy choices that are not applied equally to both nationals of the state in question and EU nationals resident there. Relevant language rights that are introduced in the state must also include EU nationals on a non-discriminatory basis (Nic Shuibhne, 2001).

One area in which international law has established clear language-related obligations on states is the criminal justice system. A number of international human rights treaties are binding for all European countries and establish specific language-related obligations with regard to criminal justice, such as the ICCPR (UN, 1966a), the ECHR (CoE, 1950) and *Directive 2010/64/EU* (OJEU, 2010). The ECHR (CoE, 1950, Article 5, paragraph 2, Article 6, paragraph

3(a)) requires that a prompt explanation of the reasons for an arrest and of any charges brought must be provided to the accused in a language that he or she understands. The equivalent provision in the ICCPR (UN, 1966a, Article 9, paragraph 2) does not explicitly require information to be provided in a language understood by the accused. Both treaties (CoE, 1950, Article 6, paragraph 3(e); UN, 1966a, Article 14, paragraph 3(f)) do, however, establish that any individual charged with a criminal offence must have access to free interpreting during court proceedings. While the respective provisions (CoE, 1950, Article 5(2), Article 6, paragraph 3(a); UN, 1966a, Article 14, paragraph 3(a)) which state that those arrested or charged with a criminal offence must be provided with a prompt explanation in a language that he or she understands do not explicitly mention interpreting, they imply that interpreters must be provided for those who cannot engage with criminal justice proceedings in the official state language. *Directive 2010/64/EU* (OJEU, 2010) cited Article 6 of the ECHR (CoE, 1950) and was designed to “ensure the right of suspected or accused persons to interpretation and translation in criminal proceedings with a view to ensuring their right to a fair trial” (OJEU, 2010, (14)). It is clear from the establishment of these three pieces of law that language provision in criminal justice proceedings is required by international norms.

Aside from criminal justice, however, states retain a great deal of autonomy with regard to language provision in most other kinds of public services. The right of individuals, groups and businesses to communicate with others in a language of their choosing is protected by the principle of freedom of expression enshrined in both the ECHR (CoE, 1950, Article 10, paragraph 1) and the ICCPR (UN, 1966a, Article 19, paragraph 2), which has been interpreted in a way that protects both the content and the language of expression (UNHRC, 1993). Members of minoritised linguistic communities therefore have the right to communicate in their own language in the private sphere, although in the case of enterprises serving the public, the state is permitted to require communication in an official state language in addition to a minoritised language; it cannot, however, forbid the use of other languages (Holt and Packer, 2001). The right to participate in cultural life (UN, 1966b, Article 15, subparagraph 1(a)) has been interpreted by the UN Committee on Economic, Social and Cultural Rights to include the freedom to choose the language in which to express oneself (UN, 2009a). Linguistic freedom is therefore well protected as an element of the

principle of freedom of expression, and the interpretation of this freedom to include the language of expression for groups and businesses.

There is increased understanding of access issues for service users who cannot engage with public service providers through the state language in question and of the negative impact that a lack of language provision can have (Piller, 2016). Such barriers may discourage mobility, hinder access to key services such as healthcare and raise significant inclusion issues. Furthermore, in addition to the equalities concerns raised in section 3.1.1 regarding the treatment of different kinds of minority languages, where access to public services and engagement with public institutions is hindered by language barriers, without support, those who cannot use English-language services are therefore disadvantaged, in comparison with English-speakers. As will be discussed in Chapter Four, Scottish public service provision in languages other than English is growing. It should be noted that, due to the often localised and ad hoc provision of such services, public service providers in general may be open to criticisms of not fulfilling key requirements of equality law, such as the obligation for states to facilitate participation in public life and affairs by minority communities (CoE, 1995, Article 15). On the other hand, the ad hoc nature of the services may also mean that it is more difficult to call for provision in languages that are currently overlooked yet have similar speaker numbers, because there is a lack of standards against which provision can be held.

3.3 International standards concerning education

In the field of education, the ECtHR (1968) ruled that children's right to education (which is protected by Article 2 of the ECHR's First Protocol) does not extend to a right to receive education through the medium of a language selected by their parents. This was arguably another example of international law deferring to state-level language policy choices, highlighting the right of states themselves to select the languages included in the education system, and is often considered to counter any claim that the ECHR requires education to be provided in languages other than official state languages. While international law may require respect for children's cultural and linguistic identities, and that of their families, the

tradition of conceding autonomy to states in determining how this requirement is fulfilled remains.

The CRC, for instance, recognises the right to education (Article 28, paragraph 1) and additionally specifies that states party to the CRC must provide education that promotes “the development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, and the country from which he or she may originate” (Article 29, paragraph 1(c)). This provision suggests a requirement for states to recognise children’s linguistic identities as part of public school education, and to provide schooling that promotes awareness of and respect for such identities. It does not, however, appear to establish any particular obligations or measures to be fulfilled by states or by schools, beyond respecting the right itself, nor does it require states to provide teaching of languages spoken by pupils, or through the medium of those languages.

The ECtHR did, however, rule in the *Cyprus v. Turkey* case that a state requiring children to attend a school that taught through the medium of a language in which they were not competent infringed on their right to education, because they would have unequal access to the education at that school (ECtHR, 2001). Considering the 1968 ECtHR ruling mentioned above and this 2001 decision, it is clear that, while the right to education is of course protected, there is no legal obligation on states to provide education in languages other than state languages, nor to accommodate the language education wishes of parents. If, however, the selected teaching language would hinder a child’s access to education, this is a violation of their right as enshrined in Article 2 of the ECHR’s (CoE, 1950) First Protocol. There is therefore no obligation imposed by the ECtHR to make education available in any languages other than state-selected languages, unless the lack of such provision prevents children from accessing schooling. This latter condition may oblige the UK to provide education through the medium of allochthonous languages if, due to a lack of knowledge of English, the absence of such provision would hinder a child’s access to education, although this is as yet an untested proposition. Although the jurisdiction of course differs, the judgement in the US case *Lau v. Nichols* (Douglas and US Supreme, 1974) should be noted: the Supreme Court found that the failure to provide additional language teaching for pupils who were not proficient in English essentially prevented them from accessing a meaningful

education and violated their rights under section 601 of the *Civil Rights Act* of 1964. For children in similar positions in Europe, an absence of allochthonous language education could likewise amount to an infringement of the right to education (CoE, 1950, Protocol 1, Article 2) and, additionally, Article 26 of the ICCPR and Protocol 12 of the ECHR are, in effect, similar provisions to section 601 of the US *Civil Rights Act*. As awareness grows of the impact language barriers can have, such equalities requirements could potentially lead to significantly more inclusive education practices – particularly in light of *Directive 77/486/EEC* (CoEU, 1977), which will be discussed further below.

This is relevant to provision in Scottish public school education, in which schools are encouraged, but not required, to teach a range of languages, taking pupils' L1s into account. The result of this is that many schools continue teaching traditionally taught Western European languages and that, for many other language communities, intergenerational transmission is left to the private sphere, usually the responsibility of families or communities themselves. This has implications, perhaps particularly so for children who are not proficient in English and may therefore require language support and education such as EAL services and also, possibly, English for speakers of other languages (ESOL) teaching. Such provision may remain inconsistent between both schools and local authority areas, which could raise equality issues. The teaching of English to pupils for whom it is an additional language, and of allochthonous European languages, arguably lacks standardisation due to the nature of education in Scotland: although, as will be addressed shortly, there is a legal obligation to support EAL pupils (the *ASL Act*), education in Scotland tends to be devolved to the local level (Bryce et al, 2013; Scottish Government, 2017b). Provision and teaching may therefore vary, in which case it is possible that children in some schools or some local authority areas will be disadvantaged compared to others, which raises obvious equality issues. Since a clear legal framework exists (the *ASL Act*) with regard to additional support needs, and the related guidance (Scottish Government, 2017c) explicitly refers to the needs of EAL pupils, it is rather the teaching of allochthonous languages, or the lack thereof, that may illustrate inadequate provision for children who speak allochthonous languages. These issues will be discussed in further detail in Chapter Four.

With regard to EU law in the field of education, it should be noted that the future of the UK's relationship with the EU is currently somewhat uncertain, but that all or many legal obligations introduced by the EU may cease to apply to the UK following its withdrawal from the EU. Discussing EU law is therefore arguably a little redundant, but there is one piece of EU law that should be mentioned and that has been and still is relevant to language issues in the UK: *Directive 77/486/EEC* (CoEU, 1977). This directive addresses the language needs of the children of EU migrant workers following a move to another EU state and, in Article 2, requires member states to provide free tuition in an official language of the host state, in order to facilitate the reception and inclusion process, and also to offer the necessary teaching training. Additionally, *Directive 77/486/EEC* sets out a vaguer obligation to “promote” the teaching of the “mother tongue” of children of EU migrant workers (CoEU, 1977: Article 3). Article 3 additionally suggests a collaborative approach, stating that such promotion of allochthonous language teaching should be undertaken “in cooperation with States of origin” (CoEU, 1977: Article 3).

The stated reason for the inclusion of this provision is that *Directive 77/486/EEC* aimed to encourage cross-border mobility between EU member states, the socioeconomic inclusion of EU citizens who do engage in such mobility and also inclusion for those EU migrants, or their children, who later return to their states of origin (CoEU, 1977). Therefore, *Directive 77/486/EEC* obliges EU member states to enable EU migrants to improve their command of an official language of that state, but also to support the intergenerational transmission of their (European) L1s, in order to promote inclusion in both the host state and the state of origin. *Directive 77/486/EEC* provides a legal framework that obligates EU states to provide a degree of multilingual education for the children of EU migrants in order to aid socioeconomic inclusion in both the host state and the state of origin.

It should be noted, however, that the very language of *Directive 77/486/EEC* frames these two provisions in different terms. Article 2 (CoEU, 1977) states that EU member states must “take appropriate measures to ensure that free tuition to facilitate initial reception is offered in their territory”, which establishes a specific requirement for states to guarantee that free language teaching is provided to the children of EU citizens. On the other hand, Article 3 simply requires states to “promote, in coordination with normal education” both the teaching of allochthonous European languages spoken by those children and associated

cultural awareness. The difference in both the strength of these obligations and the specificity with which they are laid out does suggest that the two goals, proficiency in an official language of the host state and the intergenerational transmission of allochthonous European languages, are valued differently. The implementation of *Directive 77/486/EEC* has furthermore been inconsistent and relatively limited. A Green Paper considering its implementation questioned the extent of the influence that it could have on national-level policy within the EU and described its implementation as “patchy” and “difficult” (EC, 2008, Introduction: 9, 4.3:39). The teaching of official languages in EU states has been developed largely at the national level, without much reference to *Directive 77/486/EEC*, and Article 3 has only had “some patchy impact” (EC, 2008, 4.3: 41). Language teaching in Scotland, with specific reference to Edinburgh and Glasgow respectively, will be discussed in more detail in Chapter Four.

In 2009, the CoEU’s conclusions (2009/C 301/07) about the education of children with migrant backgrounds, in which *Directive 77/486/EEC* was explicitly cited, addressed many similar issues. The role of education in “ensuring that children with a migrant background can fulfil their potential to become well-integrated and successful citizens, but also in creating a society which is equitable, inclusive and respectful of diversity” was discussed and competence in the host state’s language(s) was highlighted with regard to socioeconomic inclusion (OJEU, 2009: 301/6). It was reiterated that EU member states should provide teaching in the state language(s) and language support, such as “intensive language tuition for newly arrived pupils with a migrant background, additional support for those experiencing difficulties, and special courses” for teachers to enable them to teach pupils whose L1 is an allochthonous language (OJEU, 2009: 301/7). This is another example of detailed obligations or expectations being placed on EU member states when it comes to the teaching of their state language(s).

As with *Directive 77/486/EEC*, the requirements with regard to the teaching of allochthonous languages are somewhat less specific. The *Council Conclusions* (OJEU, 2009: 301/7-8) did highlight the value of building “intercultural competences” in order to support education professionals in meeting the needs of pupils, in addition to developing educational methods, resources and curricula that are relevant to all pupils and recognised the value of allochthonous language teaching and maintenance. The document states that

“[a]lthough the primary focus should remain on the host language(s)”, there are multiple advantages to the acquisition and maintenance of allochthonous languages: social value related to cultural identity and self-confidence, educational benefits, and the professional advantage of increased future employability (OJEU, 2009: 301/7). While the published conclusions do include examples of ways states could mitigate the challenges of limited resources (including collaboration with states of origin, collaboration with local communities and the use of new technologies), there are no specific recommendations in terms of the allochthonous language teaching or support that states are encouraged to provide (OJEU, 2009).

The CoE’s *European Convention on the Legal Status of Migrant Workers* of 1977 states that signatory states must cooperate to teach the children of migrant workers their parents’ “mother tongue” (CoE, 1977, Article 15). The only EU member states that have ratified this convention, however, are France, Italy, the Netherlands, Portugal, Spain and Sweden. Several other international human rights treaties have also established less specific obligations concerning both the protection of cultural identity and the right to education. For example, the UN’s *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* of 1990 requires states to ensure that the cultural identity of migrant workers and their families is respected. No specific measures or obligations are established, however and, as was noted earlier, the treaty has not been ratified by any EU states.

As can be seen from the above discussion, international law regarding the teaching of allochthonous languages appears to include promising discourse concerning their value and the benefits of encouraging their maintenance but contains few detailed or specific measures that impose particular obligations on states. This differs from the approach towards state languages in such legal instruments, which tend to establish much more explicit requirements concerning their teaching. The distinct framing of states’ responsibilities in each case reinforces the impression that, as is explicitly stated in *Council Conclusions 2009/C 301/07*, competence and teaching in state languages is the priority, while the acquisition and maintenance of allochthonous languages is encouraged, but not required. Without clear legislative standards and, importantly, the enforcement of such standards, with regard to both support for allochthonous languages speakers in Scottish

schools (for instance through EAL and ESOL provision) and the teaching of allochthonous languages as part of public school curricula, there may be inconsistencies in education provision that disadvantage pupils according to location and resources, which would raise significant equalities issues. An additional equality consideration is the potential for certain groups, or for speakers of certain languages (those which are not widely taught in public schools) to be disproportionately disadvantaged with regard to education. The evaluation of language provision in Scottish public schools in Chapter Four will allow for a discussion of related equalities considerations in the conclusions to this thesis.

3.4 Language-related legislation in the UK

3.4.1 Language and mobility in the UK

There are two key areas to be addressed in order to consider UK legislation and policy that is relevant to both mobility and inclusion: legislation at the UK border, which controls the initial point of access to the state and therefore affects mobility, and legal and policy instruments concerning equalities, education, and public services, for example, all of which have implications for inclusion once someone is legally present and has become established in the UK. Although inclusion (or exclusion, as the case may be) is interwoven with legal and policy norms that regulate mobility and that are engaged at the UK's borders, as well as with those concerning the status of non-EU migrants and asylum seekers, norms that more specifically relate to inclusion tend to apply rather to life within the UK. Regulations around mobility have not applied to EU migrants at the point of entry into the state while the UK was a member of the EU, because the principle of freedom of movement permitted their entry into the UK without navigating the border controls imposed on non-EU migrants. When it comes to legal and policy norms concerning inclusion, however, and to more permanent residence statuses such as citizenship, these nevertheless apply to EU migrants as well as non-EU migrants. Of course, the exact impact of the UK leaving the EU on the freedom of movement of both UK citizens and EU citizens is not yet clear, and it may be that in the future the border controls currently applied to non-EU migrants will be extended to EU migrants, or that different requirements entirely will be established. The situation, at

present, however, is that EU migrants are not subject to the same requirements and border controls as non-EU migrants.

3.4.1.1 Language as a gatekeeper at the border

Although this section of the chapter is primarily focused on legislation introduced at the UK level, in some cases it is necessary to situate the issue in question in the broader context of the EU. This is the case, for example, when discussing the use of language as a gatekeeper in Europe and, more specifically, in the UK. As population movements in Europe have increased, language has been used to restrict access to the state. Since 2000, it has become increasingly common for EU states to introduce language requirements for non-EU migrants that must be fulfilled in order to gain access to the state (Bauböck and Wallace Goodman, 2012; CoE, 2014; Wodak and Boukala, 2015). In this way, in an effort to regulate migration and control who is permitted to enter and reside in the state, language is used as an “institutionalised gatekeeper” (Wodak and Boukala, 2015: 269), as a tool to restrict access to states. This restriction can occur at several stages of the migration process: firstly, at the point of entry, secondly, for residency and employment rights and thirdly, for citizenship. This is one example of the connection between language and the somewhat conflicting objectives of mobility and inclusion; it is used to restrict the former in the name of the latter, excluding those who do not satisfy the established language requirements.

It should be noted that, although the increasingly stringent language requirements introduced for non-EU migrants are of course an example of the UK’s policy relating to language, it is arguable that they are not language policy in a direct sense, since they represent the *utilisation* of language in the pursuit of other policy objectives, rather than policy that designed to directly influence language issues. It has been argued that the policy objectives in question are, explicitly, the promotion of integration and social cohesion and, implicitly, the regulation and restriction of migration (Wodak and Boukala, 2015). These border policies do of course engage language, but seem to do so as a means rather than as an end and therefore, while they certainly influence the linguistic demographics of the UK and regulate membership of the “in-group” (Wodak and Boukala, 2015: 257), they do not explicitly address linguistic diversity or language issues more generally. The requirements in

question, however, are pertinent to discussions about attitudes towards languages and linguistic diversity in the UK. Moreover, language requirements are particularly relevant to this research due to their significance to mobility and, subsequently, to inclusion, since restricting access to the state at each of the stages above has considerable implications for inclusion both in the sense of access to the state in the first place and socioeconomic inclusion once resident in the UK.

3.4.1.2 The role of the English language in regulating access to the UK

The *British Nationality Act 1981* (s. 6(1)(c)) established “sufficient knowledge of the English, Welsh or Scottish Gaelic language” as one of the requirements for naturalisation as a British citizen. Between 2004 and 2010, the UK introduced English language proficiency requirements for non-EU migrants at all three of these points of access to the state: entry at the border, the attainment of more secure residency and employment rights, and the acquisition of citizenship (Böcker and Strik, 2011; Wright, 2016). These language requirements use the CEFR (CoE, 2018, “The CEFR Levels”), in which level A1 corresponds to a beginner who is able to have basic interactions in the language in question, while B1 is an intermediate level. In 2004, the UK introduced B1 level English language requirements for non-EU migrants who wish to become British citizens; since 2007, the same level has been required, in many immigration categories, in order to obtain ‘indefinite leave to remain’ (permanent residence) in the UK, and since 2010, A1 level English has been required for several categories of non-EU migration to the UK (Böcker and Strik, 2011: 169; Home Office, 2019a, 2019b). The latter pre-entry requirement applies to those applying to enter the UK as the partner of a British citizen or of someone with permanent UK residency and in 2012 this stipulation was extended to other types of family reunification (Wright, 2016).

Table 7: UK Immigration rules and English language requirements

Category	Applications	Level of English language required
Tier 1 (Entrepreneur)	Entry clearance and leave to remain	B1 or above (CEFR)
Tier 2 (Minister of Religion)	Entry clearance and leave to remain	B2 or above (CEFR)
Tier 2 (General)	Entry clearance and leave to remain - other than specified cases ³⁵	B1 or above (CEFR)
Tier 2 (General)	Leave to remain - specified cases	A1 or above (CEFR)
Tier 2 (Sportsperson)	Entry clearance and leave to remain	A1 or above (CEFR)

(Home Office, 2019b)

It could be argued that language requirements are simply an attempt to ensure that migrants are able to integrate more effectively in the host nation, which is how “restrictive admission rules” are often formally presented (Strik et al, 2013: 111; Milani, 2009; Wodak and Boukala, 2015). It is of course true that there is a practical element to consider: competence in dominant or official languages of host states is beneficial for everyday life and can also ease access to social, economic, educational and cultural opportunities, and there are therefore equalities and inclusion arguments in favour of facilitating that competence (Dunbar, 2006). The socioeconomic advantages of competence in an official language are often highlighted in public discourse and recognised across a range of states: “[e]vidence from all countries of immigration makes it clear that mastery of the national language(s) is fundamental to economic success” (Hansen, 2003: 34-35). The EU itself has stated that “[p]roficiency in the official language (or one of the official languages) of the host country is a prerequisite for educational success and is key to both social and

³⁵ For details of these specified cases (to which the following row of information relates), see Home Office (2019b).

professional integration” (OJEU, 2009: 301/7). The ideal of proficiency in the dominant language tends to be encouraged through UK policy, which seeks “linguistic conformity for allochthonous populations” (Wright, 2016: 246). In their research, Böcker and Strik (2011) found that the majority of the immigrants that they interviewed believed that it was reasonable to have some degree of language requirement in place and that competence in the dominant language of the state was a precondition for building a life there.

Although language requirements tend to be presented as necessary to integration, they do restrict access to the state, “can restrict access to citizenship” (Wodak, 2013: 177), and thus, it has been argued, represent the explicit practice of exclusion (Wodak, 2007). Wodak and Boukala (2015: 254) argue that the introduction of such barriers to non-EU migration is in fact “an obvious formal legislative obstacle” that hinders inclusion, and such requirements have been characterised as “mechanisms for assimilation” (Wodak, 2013: 177).

Constructions of national identity and group membership are increasingly connected to language: “belonging and the discursive construction of individual and collective national identities are becoming linked more and more to language policies” (Wodak and Boukala, 2015: 254). This is an approach that, despite its claimed aims, seemingly impedes both mobility and inclusion, as official state languages are prioritised in terms of access to education, housing, employment and citizenship rights (Wodak, 2013). In the UK, the increasing importance of proficiency in English in the immigration and citizenship processes establishes competency in the dominant language as one of the markers of belonging, and those who do not meet this criterion as ‘other’. The construction of a ‘European’ “in-group” through othering, and the role of language in such discourse, establishes an out-group of “non-European others” (Wodak and Boukala, 2015: 257). This restrictive and exclusionary use of language is relevant to this research because it relates to inclusion – or, in this case, exclusion – and because such requirements affect access to the state at the point of entry, for some migrants, and also the right to residence and participation in society, for others. This is one example of how legislation and policy engage both mobility and inclusion.

As previously mentioned, it is common to see arguments that proficiency in state languages is a route to integration, social cohesion and the socioeconomic success of migrants: “learning the dominant language is often seen as vital for establishing a sense of patriotism and loyalty to the larger society” (Patten and Kymlicka, 2007: 8). On the other hand, the

maintenance of allochthonous languages is associated with disunity and socioeconomic disorder, particularly in the context of fears that the expected pattern of language shift among immigrants, from their allochthonous language to the state language(s) of the host state (Dunbar, 2007; Lo Bianco, 2016), will cease to occur (Patten and Kymlicka, 2007).

Connections drawn between allochthonous languages and “problems of poverty, underachievement in schools, social and cultural problems, as well as lack of integration into the society of residence” (Akoğlu and Yağmur, 2016: 707), can reinforce negative perceptions of language diversity, and such discourse problematises allochthonous language usage (Sorace, 2013). Allochthonous languages may be accorded a “lower status” (Gundara and Sharma, 2010: 99), particularly those that are associated with non-European migration and, more recently in the UK, also those that have become more established through EU migration, for instance from EU8 states (Ruhs, 2012). These messages can negatively affect the value placed upon allochthonous languages by their own speaker communities, who often internalise the belief that “full integration comes through the abandonment of their native language” (Sorace, 2013).

The socio-political status that a given language has affects language maintenance and language shift (Leeman, 2015). As a result of the so-called “three generation rule” (Place and Hoff, 2011: 1846) within allochthonous language communities, in which bilingualism tends to be present in the second generation but monolingualism in the dominant state language is the norm for the third generation, often full linguistic assimilation has occurred by the third generation (Dunbar, 2007; Lo Bianco, 2016; Hancock and Hancock, 2018). In states with monolingual cultures, bilingualism in allochthonous languages may remain largely due to continued immigration (Place and Hoff, 2011). Policy in the UK has tended to focus on advocating the acquisition of English “with little or no regard to the impact of this policy on minority languages” (Dunbar, 2006: 184; Wright, 2016). Despite the practical benefits of proficiency in English, acknowledged above, a focus on English to the exclusion of other languages can hinder the intergenerational transmission of allochthonous languages, which is “one of the major mechanisms of cultural continuity” (Nauck, 2001: 159). This has implications for inclusion and for multilingualism in the UK: “where such policies are not accompanied by respect for minority languages and identities, they can lead to assimilation, rather than integration” (Dunbar, 2006: 184) and, indeed, linguistic

assimilation has been argued to be an objective rather than simply a consequence of UK policy (Wright, 2016: 246). This is linked to negative depictions of immigration and cultural and religious diversity in the British media, through “ambiguous or hostile media messages which fuel anxieties about migration amongst the host community” (Hancock, 2008: 90), with even “reputable newspapers allow[ing] the publication of blatantly antisemitic, Islamophobic or racist comments” (CoE, 2010b: 47). This has implications in many sectors and is relevant to education due to the impact of the wider socio-political context on both policy and practice (Costley, 2014). As Creese (2010) discussed, and as will be addressed in Chapter Four, pupils register negative perceptions of allochthonous languages and EAL provision, which can lead to their stigmatisation, even when the explicit discourse of the school community is inclusive.

3.4.1.3 Language requirements: exclusion in the name of inclusion?

Language requirements may be discursively framed in terms of inclusion, but there is a wide range of approaches among EU member states, particularly in terms of the level of knowledge required. Due to this variety of standards, Böcker and Strik (2011) challenge the idea that immigrants need the required knowledge to integrate successfully; particularly since there is a tendency to raise the competency levels demanded over time, or at different stages in the immigration process, or to worsen the sanctions for non-compliance, with limited systematic evaluation of the previous requirements. Böcker and Strik (2011: 182) conclude that this further indicates that the underlying objective is to restrict permanent residence in the state only to “well integrated” immigrants, who are, for example, functionally competent in the state language, and that the requirements appeal to policy-makers because they create the appearance of a more “manageable” integration process.

Furthermore, the question of whether language requirements do in fact facilitate integration is contested. One factor that brings this into question is the fact that, once someone has satisfied the A1 English language requirements for entry into the UK, there is subsequently a higher threshold, requiring level B1 in English, for obtaining more secure residency statuses. Restricting attainment of permanent residence also restricts access to rights and social benefits. While limiting access to such rights *may* benefit the state in terms

of cost savings and reduced service demand, it is difficult to argue that hindering access to these rights encourages integration. In many cases, rights such as family reunification, equal access to the labour market and the use of social welfare systems are granted only to those who have obtained permanent residence status and thus satisfied the associated language requirements (Böcker and Strik, 2011). Immigrants who do not meet the requirements for permanent residence are thus prevented from reaching a more stable status and accessing the rights, obligations and opportunities usually associated with permanent residence. This suggests a situation of exclusion rather than inclusion, facilitated by language requirements, because in cases where immigrants are unable to meet the language and knowledge of society requirements, integration is likely to be hindered rather than facilitated (Böcker and Strik, 2011). For example, it is necessary to pass the 'Life in the UK' test in English³⁶ in order to obtain 'indefinite leave to remain' (Böcker and Strik, 2011: 169), and those who have not done so cannot access the same rights and opportunities as other residents. It is difficult to see how increasingly restricting access to permanent residence status for those who are lawfully resident in the state, and thereby hindering the enjoyment of socioeconomic rights associated with that status, could be justified as furthering inclusion.

This use of language to control access to the state and to citizenship can lead to a situation of inequality, since different kinds of migrants have differing degrees of access to language learning, both before and after arriving in the UK. Böcker and Strik (2011) identify the range of pass rates for knowledge of society and language tests between different groups as evidence that immigrants' backgrounds affect their likelihood of passing these tests, highlighting in particular nationality, age and education level as factors. Social class and inequality of opportunity could just as easily affect migrants from the same country of origin, as could gender, or age. As a result, it is somewhat meaningless to aggregate migrants from the same country of origin, given that such factors can have a significant impact on access to education, resources and language learning in general, and therefore on the likelihood that they will meet the linguistic standards set in the tests.

Circumstances in the UK can cause barriers and inequalities that privilege some migrants over others, including access to English language classes and learning resources; exposure to

³⁶ Alternatively, Welsh or Scottish Gaelic can be used, an option from which few non-British nationals will be able to benefit.

the language in everyday life; participation in the socioeconomic sphere and access to education in general. Justifying English language requirements on the grounds of encouraging inclusion might be more convincing if English language courses and resources were readily available and accessible. In fact, there have been funding cuts for ESOL provision, while the financial cost of the British citizenship application process has increased and, since 2013, applicants have had to study for and sit the 'Life in the UK' and English language tests separately, which also increases the costs (Murray, 2016). Such increases in obstacles and costs suggest that restricting access to more secure residence statuses is prioritised over facilitating inclusion.

Thus, the use of language requirements and language testing can create or deepen a situation of inequity. Research suggests that immigrants from vulnerable groups, such as refugees, older people, women and those who have had less access to formal education, tend to be disproportionately disadvantaged by language requirements (MIPEX, 2015). In turn, those from such vulnerable groups who are able to enter the state may face challenges in accessing opportunities, particularly given the aforementioned increase in costs in the UK (Murray, 2016), and more secure or permanent positions in the state and in the labour market, so greater exclusion is likely to be faced.

Despite the justifications for the introduction of increasingly stringent language requirements, it is clear that such requirements may in fact lead to increased exclusion, due to inequalities that privilege some immigrants and disadvantage others, locking people out, not just at the border but also out of full participation in the state. Public services that offer linguistic support and interpretation and translation resources can therefore be of great value, particularly to vulnerable groups or communities that may otherwise face exclusion due to low proficiency in English. Such services can facilitate access to the state and to other vital services such as healthcare, education and housing and therefore assist inclusion and help to lessen the inequalities faced. Language requirements restrict mobility in the name of inclusion but can in fact contribute to exclusion and so arguably fail in their current form to balance mobility and inclusion, instead restricting both.

3.4.2. Language and inclusion in the UK

The focus in this part of the chapter is how UK policy influences the process of integration and the extent to which inclusion is promoted, with particular emphasis placed on the role of language in policy in this field, on equalities legislation and on education policy. There is an extensive literature already available concerning UK migration law, human rights law and education policy, but little that focuses specifically on language issues within these fields; language tends to be overlooked in equalities contexts, in which the focus tends to be on other identity markers such as race. The discussion here will consider not only the direct relationship between legislation and policy, and language, for instance the promotion of a particular language through policy, but also the indirect: the language ideologies³⁷ that are revealed by legislative and policy choices, as well as the policy rationales behind those choices. The reason for this is that considering policies and legal norms solely as actions and evaluating only their direct and explicit objectives and results would provide an incomplete analysis: laws and policies are formed as part of a wider ideological framework and it is important to analyse this framework as well.

In the context of multilingual and multicultural³⁸ societies, equality can be challenging to achieve, and diversity can arguably be challenging to accommodate. A discussion of equality necessarily engages questions about different approaches to achieving it, such as universalism and particularism. The UK tends towards particularism, an approach in which particular rights and protection are accorded to marginalised groups (May, 1999, 2012), through legislation such as the *Equality Act 2010*, rather than universalism, which foregrounds universal and individual rights rather than group rights (May, 1999). Modern, liberal understandings of the latter have been criticised on the grounds that they “implicitly, and at times explicitly, [support] the hegemony of the dominant ethnies within nation-states, along with the languages they speak” (May, 2012: 13) and consider the “formal recognition of collective (ethnic) identity [...] as undermining personal and political autonomy, and

³⁷ See footnote 11 for Spolsky and Shohamy’s (2000) definition.

³⁸ Used here in the sense of demographic realities, i.e. a culturally diverse population, rather than in the sense of the model in which group rights are prioritised (May, 2012) and cultural differences are recognised in order to accord particular rights to different groups (Koopmans and Statham, 1999; May, 2012). The model has been contested more generally (May 2012) and also specifically in the UK policy context (Modood and Meer, 2009; Cameron, 2011).

fostering social and political fragmentation” (May, 1999: 15). Despite the UK’s tendency to adopt a particularist approach, the increasing restrictions placed upon mobility and migration into the UK, using language as a gatekeeper (Wodak and Boukala, 2015), suggest movement towards an increasingly assimilationist approach, as highlighted by Wright (2016: 246).

Although there is increasing evidence of the multilingual nature of the UK population, there remains little UK policy that is specifically related to allochthonous languages, although legislation and policy related to autochthonous languages, particularly Gaelic and Welsh, have been established. Much of the existing provision tends to be established in a somewhat ‘bottom up’ approach, introduced locally in response to demand for services and the reality of the UK’s multilingual society, rather than as the result of legislation, policy, or language ideology that recognises and promotes multilingualism. As shown in Chapter One, the 2011 Census provided a picture of the UK’s linguistic composition and revealed that the majority of those who do not speak English (English or Welsh in Wales) as their L1 did speak it competently (ONS, 2013e; NISRA, 2013a; NRS 2015a). Nevertheless, language-related issues, particularly those connected to proficiency in English, form a notable part of both political and media discourse with regard to diversity in the UK; and yet, there is very little provision in place at the UK level, either in terms of law and policy or practical support.

It is important here to discuss the policy approaches towards different types of language communities, which of course are indicative of the language ideologies that motivate such approaches. Wright (2016: 246) argues that, while the dominant linguistic group in the UK (those with English as their L1) has for the most part now accepted the protection and promotion of autochthonous language rights, the same is not true for allochthonous language rights, because recognition of the same rights and status for allochthonous languages and their speakers remains “politically unacceptable” both to the majority population and to the political elite. This is reflected in how policy relating to allochthonous languages and their speakers has been shaped: at the UK level, the “linguistic conformity” of allochthonous languages speakers has been identified as the policy objective by Wright, (2016: 246), due to the use of English language requirements in the immigration system. Although more recent approaches, both scholarly and political, have included considerations of rights, assimilation still plays a role in discourse and “we should be clear

that linguistic space is only opening up for territorial rather than migrant groups” (Wright, 2016: 246). The need to more explicitly extend legal protection and rights promotion to allochthonous language speakers has, argues Wright (2016), been indirectly recognised at the supranational level. The previously mentioned UN *General comment No. 23* (1994: 2-3) is an example of this. UK policy, however, does not necessarily reflect this. There are also practical challenges, which may restrict legislation and provision, to extending positive rights (in which case, a state takes action, for example, by funding allochthonous language education for children) rather than negative rights (which obligate a state only to ensure the protection of a certain right, such as freedom from interference) to allochthonous language speakers (Wright, 2016). The practical reality, however, that allochthonous language speakers may not be proficient in the state language, “clearly makes it pressing to provide services in the language of the migrant community” (Wright, 2016: 247), although it is also true that, due to the increasingly diverse linguistic profile of many European cities, “the provision of information and services in all languages is probably not realisable” (Simon, 2000, cited in Wright, 2016: 247).

3.4.2.1 Equalities norms at the domestic level

Although there is little language-specific domestic legislation and policy at the UK level, this is not the case with regard to the devolved parliaments of Scotland and Wales. As at the supranational level, language-specific instruments relevant to autochthonous languages have been introduced by both devolved parliaments: for example, the *Gaelic Language (Scotland) Act 2005* and the *Welsh Language (Wales) Measure 2011*. Separate, autochthonous language-specific instruments do thus exist, at the supranational level, the devolved Scottish Government level and additionally at the local level, for example in the form of Gaelic language plans, either statutory or voluntary, developed by Scottish public authorities and organisations. There is little legal provision for allochthonous languages, however, at any level of governance in the UK. Allochthonous language communities remain overlooked in the development of legislation and policy, with much of the provision that does exist established at the local level on a somewhat ad hoc basis that lacks standardisation or consistency between different areas.

Significant equalities legislation does exist, however, and may indirectly apply to languages, despite language not being included on the list of ‘protected characteristics’ in anti-discrimination legislation in England, Wales and Northern Ireland (Scotland will be discussed below). As equalities law in the UK developed, the core tenets of several separate pieces of anti-discrimination legislation (such as the *Race Relations Act 1976*, the *Sex Discrimination Act 1975* and the *Disability Discrimination Act 1995*) were amalgamated into one piece of law: the *Equality Act 2010*. This piece of legislation identifies nine “protected characteristics”: age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation (*Equality Act 2010*, c. 1(4)) that are covered by the Equality Act’s anti-discrimination provisions. This creates a legal framework of rights and equalities obligations and allows the possibility of legally challenging any violation of those rights and protections.

As can be seen above, language is not recognised as a “protected characteristic” under the *Equality Act 2010* (c. 1(4)), which is one example of how language issues are often overlooked in domestic UK legislation. It is possible, however, that allochthonous languages could be indirectly protected under the ‘race’ category, which includes ethnic and national origins, but there is certainly no explicit protection afforded by the legislation to speakers of minoritised languages on those grounds specifically. As mentioned in Chapter One, the definition of ethnicity under UK law recognises a common language as one marker of an ‘ethnic group’ that “could also be relevant” and that additionally does “not necessarily have to be peculiar to the group” (*Mandla v Dowell Lee et al* [1983] AC 548). This provides some scope for the argument that discrimination on language grounds would generally amount to discrimination on ethnic grounds, and therefore for the accordence of rights to allochthonous language communities, and certainly for the inclusion of language as part of the ‘race’ characteristic under the *Equality Act 2010*.

The *Equality Act 2010* did impose certain responsibilities on the public sector in accordance with the equalities obligations established by the law, and listed public authorities in Scotland, which included NHS Boards and local authorities (*Equality Act 2010*, c. 15, Schedule 19, Part 3). The *Equality Act 2010* provides that public authorities must consider the need to eliminate any discrimination against which the legislation protects, to “advance equality of opportunity” (s. 149(1)(b)) for those with protected characteristics in relation to

those without them, and also to “foster good relations” (s. 149(1)(c)) between the former and the latter, which according to the legislation includes both challenging prejudices (s. 149(5)(a)) and promoting understanding (s. 149(5)(b)). It was also specified that those exercising public functions are subject to the same requirements, regardless of whether or not they are in fact public authorities (s. 149(2)). Furthermore, the legislation makes clear that such consideration consists of eliminating or lessening any “disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic” (s. 149(3)(a)), taking action to fulfil the needs of those persons, where a relevant protected characteristic leads to their needs differing from those of people who do not share it, and facilitating participation in public life by those with protected characteristics, particularly when existing participation is “disproportionately low” (s. 149(3)(c)).

Given the scope for language and, indeed, allochthonous languages, to be indirectly considered a protected characteristic under the *Equality Act 2010*, these provisions relating to public sector provision are noteworthy. As applied to allochthonous language speakers, the legislation potentially requires public bodies not only to eradicate discrimination on language grounds for those communities and to meet their language needs, but also to actively promote equality, remove obstacles caused by language barriers and promote good relations between allochthonous language communities and others. This will of course be relevant to the discussion of public service provision in Chapter Four. While equal opportunities are a reserved matter (*Scotland Act 1998*, s. L2) and therefore the *Equality Act 2010*, and its provisions, are legally binding in Scotland, a slightly broader understanding of characteristics related to equalities can be observed in the *Scotland Act 1998*. As set out in the legislation, ‘equal opportunities’ include language in its list of “personal attributes”: ““Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of [...] language...” (*Scotland Act 1998*, s. L2) and, while this interpretation cannot supersede that which was subsequently enshrined in the *Equality Act 2010*, the inclusion of language is notable, though the *Scotland Act 1998* does not itself expand the scope of the *Equality Act 2010*. Areas in which the implementation of equalities law may engage language and impact language communities include employment, access to healthcare and other public services, and education. The principle of non-discrimination

applies to such service provision and to the labour market but, since UK legal norms with regard to equalities do not specifically extend to language, it is indirectly, through other identified protected characteristics, that language issues engage anti-discrimination law.

The fact that as a result of UK policy, allochthonous linguistic communities are only able to engage anti-discrimination legislation by virtue of identification with a nationality, racial or ethnic group raises the question of the heterogeneity of these communities and the differentiated experiences both between and within different language groups. One significant example of this is the difference in treatment of EU and non-EU migrants, for instance in the migration process itself: EU migrants do not have to fulfil the same immigration requirements that non-EU migrants are subject to (prior to the UK's withdrawal from the EU, at least). By virtue of EU freedom of movement principles, EU and non-EU migrants are subject to different rules regarding immigration and residency in the UK. Even within those groups, however, experiences vary. Different categories of non-EU migrants, for example, must comply with different requirements in order to gain entry into the UK, while opportunities to attain more secure settlement statuses are affected by access to language learning, which in turn varies according to considerations such as socioeconomic status and caring responsibilities.

There may also be differences in the experiences of EU migrants, according to which EU state is their country of origin. Although political and media discourse in the UK in recent years has often depicted EU migration in general as problematic, it has tended to focus more negatively upon migration from the EU8 and EU2 states than that from other member states (Ruhs, 2012). As a result, this public discourse may have wrought changes on the experience of others; particularly migrants and established communities whose countries of origin, or those of previous generations, were Commonwealth countries. The shifting nature of hierarchies and public discourse may allow groups who were previously subjugated to become more empowered, as newer groups are placed in the position they had previously occupied. One example of this process is the lead-up to the recent UK referendum on EU membership, in which the campaign for the UK's withdrawal from the EU placed an emphasis on EU migration and freedom of movement as problematic, using both the 'topos

of burden’ and the ‘topos of threat’,³⁹ shifting the focus from communities that have long been subjected to othering and prejudice. Although this discursive shift may be only temporary, it nevertheless influenced the hierarchy of ‘others’ in the UK.

Equally, among non-EU migrants, there are many factors that can lead to a range of experiences of migration and inclusion, such as nationality, age, education background, cultural norms, employment opportunities and gender. Furthermore, it should be noted that, as the global position of the English language has changed, any linguistic ‘advantage’ potentially held in the past by people arriving in the UK from Commonwealth countries, for example, may have diminished. The role of English as a lingua franca and its increasing socioeconomic status means that it is more and more likely to be taught and learnt by citizens of different countries. It is also important to note that access to the labour market does not necessarily facilitate English language proficiency; the chances of improved competency as a result of employment are dependent on various factors such as the employment sector in question and the linguistic composition of the workforce. If the workplace is predominantly English-speaking, chances of improved competency are greater but, if migrants work with colleagues who speak their L1, the workplace is less likely to assist significantly in improving English language skills. The same is true, of course, of other domains: if allochthonous language speakers are part of a community, or attend an educational institution, in which their L1 is used by others, this may facilitate maintenance of that language, but may also restrict opportunities to improve competency in English.

3.5 Language-related legislation and policy in Scotland

Although there is little language-specific domestic legislation or policy at the UK level, the same is not true of Scottish legislation and policy. A number of language-specific pieces of legislation, policy and strategy have been introduced by the Scottish Government; some of these relate to autochthonous languages rather than to allochthonous languages, or to

³⁹ Discursively connecting migration with, respectively, strains on and risks to the state or society (Wodak and Boukala, 2015).

British Sign Language (BSL)⁴⁰ rather than spoken languages, but others are relevant to this exploration of the place of allochthonous spoken languages in Scottish public services. Nevertheless, even in those Scottish instruments that concern languages other than allochthonous languages, language issues are foregrounded more explicitly than they tend to be within the UK legislative framework.

While there are additionally numerous strategies and policies developed by public bodies in Scotland that are pertinent to this research, these will be addressed in Chapter Four as part of the evaluation of multilingual provision in public services. This final section of Chapter Three will highlight key pieces of language-specific legislation and Scottish Government policy, to complete this analysis of the domestic legal context. The instruments in question relate to inclusion for asylum seekers and refugees in Scotland and to language learning in Scottish public schools. A strategy published in 2013 by the Scottish Government, in partnership with two other organisations, outlined measures and recommendations that would facilitate inclusion for refugees in Scotland, and this will be the focus of the following section. Subsequently, two significant instruments related to education will be discussed: the *ASL Act*, the guidance document related to which addresses language support for EAL pupils, and the Scottish Government's 1+2 Approach, which outlines a long-term strategy to develop language teaching in Scottish public schools.

3.5.1. Language and inclusion: the experiences of refugees and asylum seekers

The experiences of asylum seekers and refugees in the UK are relevant to this discussion in that both mobility and inclusion are at play in the asylum process: mobility, and the rights established by international law, allow asylum seekers and refugees to enter other states and apply for leave to reside in that state, which, once granted, engages a range of inclusion issues. Asylum seekers and refugees are forced to migrate by a range of circumstances and, once the legal process in the host state has been completed, must then establish themselves in that state, often with limited resources or state-supported networks.

⁴⁰ In the context of this research, BSL is considered to be an autochthonous language and so, while there is certainly much interesting discussion to be had about legislative developments and provision for BSL users, that discussion will not form part of this thesis.

Socioeconomic inclusion can be facilitated or hindered by cultural and linguistic factors; existing competency in a state language is not guaranteed, and language support may be required in order to access education, employment and healthcare, for example. This may also be true, of course, of many people who arrive in a state as a result of migration processes, but the particular circumstances of refugees and asylum seekers can mean that they are especially vulnerable and without resources.

Although immigration and asylum are reserved matters that remain the responsibility of the UK government, many domains that are connected to inclusion are devolved matters and are coordinated by Scottish political institutions (Scottish Government, 2013). The issue of language barriers was raised in the course of research carried out by the Scottish Refugee Council (SRC), in which many asylum seekers described feeling powerless as they waited for the outcome of their asylum claims and highlighted the importance of access to specialist services, English language learning and opportunities to interact with both other asylum seekers and Scottish people (Mulvey, 2013; Scottish Government, 2013). The significance attributed to language learning in such an uncertain and powerless situation illustrates the perceived value of English as a means of socioeconomic integration.

The practical benefits of English language competency for asylum seekers and refugees are acknowledged in the integration strategies developed collaboratively by the SRC, the Convention of Scottish Local Authorities (COSLA) and the Scottish Government (Scottish Government, 2013, 2018c). A number of measures included in the strategy were related to the importance of English language learning, such as the need for continued funding by the Department of Work and Pensions (DWP) for accessible community English language courses (ESOL) (Scottish Government, 2013). The majority of these courses are delivered by further education colleges in Scotland and, although fee waivers for ESOL courses are available to asylum seekers as soon as they arrive in Scotland, in order to facilitate inclusion (Scottish Government, 2013, 2018a), it is not always easy to access such classes. The research carried out by the SRC found, for instance, that many respondents reported having to wait for two years to attend ESOL classes (Scottish Government, 2013); although there are some positive frameworks in place that seem to highlight the importance of ESOL courses, their availability is limited.

The strategy identifies the DWP's goal in funding ESOL courses as assisting refugees in meeting requirements during the job-seeking process, but the measure is included in the strategy under the following objective: "Refugees are supported to fully understand their rights to welfare support, the labour market and volunteering and employability opportunities and as a result, are increasingly able to access these opportunities" (Scottish Government, 2013: 40). The SRC strategy highlights the importance of ESOL and EAL in addressing the language needs of refugees and asylum seekers, and explicitly notes that: "English language learning is key to both education and employment opportunities" (Scottish Government, 2013: 53). Participants in the SRC's research also highlighted "the need for [...] English language support for general day-to-day communication as well as for labour market and educational access" (Scottish Government, 2013: 53). This reflects Böcker and Strik's (2011) finding that most of the immigrants who participated in their interviews considered competence in the dominant state language to be a prerequisite for building a life in that state.

With regard to other services, the SRC research also recognised that men's, women's and children's experiences of the asylum process vary, and that women in particular face certain barriers in response to which specific services must be developed (Scottish Government, 2013). Additional challenges encountered by women with regard to accessing English language teaching may include practical conflicts with caring responsibilities, such as the lack of childcare available (Refugee Women's Strategy Group, 2011, cited in Scottish Government, 2013). Such obstacles may deepen exclusion and hinder women from gaining the English language proficiency that might otherwise have assisted them in accessing other socioeconomic opportunities, such as educational and professional development.

This is not the only migration-related process in which women face particular obstacles; as previously mentioned, women who migrate to the UK from outside of the EU are also disproportionately disadvantaged by language requirements in the immigration system (MIPEX, 2015). The SRC research referred to language requirements in the context of both social inclusion and the UK citizenship process: "There is also evidenced need for additional support to achieve the English language skills required for successful integration into Scotland's communities and to pass the UK citizenship test" (Scottish Government, 2013: 54). Such disparities can hinder inclusion for already marginalised groups, and service

providers should take such structural inequalities into account when developing and delivering services.

3.5.2. Language provision in Scottish education

Education is one of the policy areas that is devolved, and the tradition of education policy in Scotland has been that local authorities retain relative autonomy over provision (Bryce et al, 2013; Scottish Government, 2017b). Political responsibility for education remains with the Scottish Government and Parliament and, while there are curricular requirements and qualification frameworks determined at that level, local authorities and individual schools themselves are to a certain extent able to establish their own approaches. This may contribute to the somewhat locally specific education practices often developed with regard to linguistic support, which will be discussed further in Chapter Four, and to the limitations that are present within Scottish education with regard to language teaching, which will be the focus of this section. Despite this level of autonomy for local authorities and schools, language-related legislation in the field of education has also been introduced in Scotland. Several pieces of Scottish legislation, such as the *ASL Act*, the *Gaelic Language (Scotland) Act 2005*, the *British Sign Language (Scotland) Act 2015* and the *Education (Scotland) Act 2016* address or include language issues.

One example of legislation introduced in Scotland is the *ASL Act*, which addresses the additional support needs of Scottish pupils. A range of needs, including language needs, are taken into account by both the *ASL Act* itself and the guidance produced by the Scottish Government (2017c). The *ASL Act* itself does not specify additional support needs relating to language for the purposes of the legislation, but the revised *ASL Code of Practice* (Scottish Government, 2017c) identifies having English as an additional language as an additional support need, and includes the provision of in-class linguistic support for EAL pupils as one way education providers can meet the obligations established by the *ASL Act*. The inclusion of language considerations in this piece of legislation is a significant development, especially given the monolingual ethos of the UK (McLeod, 2008) and Scotland (Hancock, 2014a), in which language issues are often overlooked (McLeod, 2008).

It has been argued, however, that although the *ASL Code of Practice* (Scottish Government, 2017c) promotes valuing EAL pupils' additional language skills,⁴¹ the fact that having English as an additional language is categorised as an additional support need in the Scottish school system frames having an L1 other than English as an educational deficit, due to the “the deficit label associated with additional needs”, which risks encouraging the othering of EAL pupils by their peers (Creese, 2010: 47). Hancock (2014a: 179) argues that the move towards a needs-based, “inclusive ideology” represented by the *ASL Act* is potentially undermined by the application of “the pejorative term ‘additional support for learning’” in the context of EAL pupils, because it reinforces negative perceptions of bilingualism, creates a confusing framework for teachers and furthers a “one-dimensional understanding of contemporary minority experiences. [...] it fails to take into account the full nature of children’s multiple and transformative identities and their complex lived experiences”.

Given some of the attitudinal challenges encountered by EAL staff, which will be discussed in more detail in Chapter Four, and existing hierarchical perceptions concerning allochthonous languages, it is problematic to frame having an L1 other than English as an educational disadvantage. Such an approach risks promoting the idea that multilingualism is equivalent to a socioeconomic disadvantage. In a society such as the UK, in which a culture of monolingualism remains strong and the linguistic conformity of allochthonous language speakers is still a guiding policy objective (Wright, 2016: 246), such framing can reinforce negative perceptions of linguistic diversity, and the effects of this on speakers of languages other than English can be significant. It is important to address attitudinal issues around multilingualism because they have an impact on the development of language-related legislation and policy, and on the experiences of service users. For instance, in the context of Scottish public schools, Hancock (2014a: 174) comments that the “prevailing monolingual mentality” in Scotland disadvantages pupils educationally, culturally and economically. Although, as will be discussed below, there has been some movement towards promoting a

⁴¹ The *ASL Code of Practice* highlights that EAL pupils may have competency in languages other than English, and that these language skills should be valued: “A need for additional support does not imply that a child or young person lacks abilities, skills or strengths. For example, bilingual children or young people whose L1 is not English may already be fluent in one or more other languages with a wide range of achievements, skills and attributes. Any lack of English should be addressed within a learning and teaching programme which takes full account of the individual’s abilities and learning needs.” (Scottish Government, 2017c, Chapter 2(24): 24.)

more positive and more inclusive approach towards language teaching in Scottish education (Scottish Government, 2012b), this has for the most part been limited to recommendations as opposed to more explicit, or binding, policy or legislation.

The Scottish Government's (2012b) 1+2 Approach is a language policy that follows the model promoted by the EU and aims to promote multilingualism within the Scottish population (Hancock, 2017). The 1+2 Approach recommends the introduction of two additional languages at primary school: the first additional language (L2) should be introduced in the early stages of primary education, from Primary 1,⁴² while the second additional language (L3) selected should be added to the curriculum later. The exact point at which the L3 is introduced is determined by individual schools and local authorities, but the 1+2 Approach states that this should occur in Primary 5⁴³ at the latest (Scottish Government, 2012b). The document published by the Scottish Government that outlined the 1+2 Approach recommended that, when determining the languages to be taught, a range of possible languages should be considered: Scottish Gaelic, European and non-European allochthonous languages, taking into account the "community languages of pupils in schools" (Scottish Government, 2012b: 18) and thus promoting a more inclusive approach to language teaching in Scotland. Additionally, the Scottish Government adopted a recommendation made by the Languages Working Group (LWG) and subsequently agreed to develop connections with cultural organisations, language communities, local authorities and schools themselves, in order to "derive maximum benefit" from allochthonous language speaker communities (Scottish Government, 2012b: 24).

The 1+2 Approach does therefore establish some promising measures and promotes a more diverse, inclusive approach to language teaching in Scottish schools. As is often the case, however, the adoption and implementation of its measures has been limited, as will be discussed in Chapter Four. Despite the recommendations, allochthonous languages remain largely excluded from public school curricula, particularly in terms of secondary school qualifications, so there are limited opportunities for allochthonous language speaking pupils

⁴² Pupils are four or five years old at the beginning of Primary 1.

⁴³ Pupils are eight or nine years old at the beginning of Primary 5.

to use or develop those languages in education settings (Hancock and Hancock, 2018).

Where they are included, a hierarchy appears to be in place:

Western European languages or languages that are considered to have economic benefits [are seen] as the most appropriate languages to teach, whereas the heritage languages used daily in homes across Scotland are given little, if any recognition (Hancock and Hancock, 2018: 13).

Although the Scottish Government accepted the recommendation to work more closely with language communities and cultural organisations (Scottish Government, 2012c: 24) there was no explicit connection drawn between this commitment and the teaching of a more diverse range of allochthonous languages.

The implementation of the 1+2 Approach in public schools has for the most part been limited to the traditionally taught Western European Languages: French, German and Spanish, with Polish and BSL included in the curriculum in only a minority of schools (Hancock, 2017). This is despite the fact that, as can be seen in the 2011 UK Census in Scotland data⁴⁴ detailed in Chapter One, Polish was at that time the allochthonous language with the largest speaker community (NRS, 2015a). Additionally, the Polish-speaking community had, unsuccessfully, lobbied the Scottish Government for greater inclusion in the school curriculum: more specifically, for an SQA qualification to be developed in Polish (Hancock, 2017; Hancock and Hancock, 2018). French, on the other hand, remains widely taught in Scotland, and, indeed, throughout the UK, and yet it has far smaller speaker numbers than Polish (NRS, 2015a). As of the 2011 UK Census, Polish also had a larger speaker community than the previously most significant non-European allochthonous languages such as Urdu, Punjabi, Bengali and Chinese languages (NRS, 2015a). Although SQA qualifications in some of these languages have been developed (such as National Qualification and Higher Cantonese, Mandarin and Urdu (SQA, 2019)), many of these languages, despite their speaker communities having been established in the UK for a relatively long time, have similarly been overlooked in the Scottish education system.

Furthermore, despite the Scottish Government accepting the recommendation to “derive maximum benefit” (Scottish Government, 2012b: 24) from allochthonous language speakers

⁴⁴ Although, as discussed in Chapter Two, census data should be used carefully due to its limitations, it nevertheless provides a useful picture of the linguistic composition of the UK.

and to consider the languages spoken by their pupils when determining curricula and language teaching, the allochthonous language skills of pupils seem to be largely overlooked. Efforts have been made to encourage schools and teachers to approach their pupils' L1s and language skills more positively, which will be addressed in Chapter Four, but with regard to the 1+2 Approach, there is little focus on these existing language skills. There is also no acknowledgement of the experiences of EAL pupils,⁴⁵ for whom the 1+2 Approach may mean that they learn the languages introduced at school through the medium of a language in which they are not yet proficient, as they learn English, plus an additional L2 and possibly also an L3. In practice, EAL pupils have been consistently found to develop better L2 skills than their native English-speaking peers (Christie et al, 2016), so there is perhaps no cause for concern, but nevertheless the fact that these issues are not addressed does not suggest a great deal of awareness.

While the 1+2 Approach recommends a more inclusive approach to language teaching in Scottish public schools and seems to recognise and promote the value of allochthonous languages, the exclusion of significant allochthonous languages from both school curricula more generally and secondary school qualifications in particular undermines this rhetoric somewhat. Of course, such choices are not merely the responsibility of individual schools or of local authorities, particularly with regard to secondary education; languages can only be taught to qualification if those qualifications have been developed, and this is not the case for several significant allochthonous languages. The Scottish Qualifications Authority (SQA), for example, offers secondary school qualifications in Mandarin and Urdu, but not in Arabic or Polish (Hancock, 2017). Language qualifications are available to secondary school pupils in Cantonese, French, Gaelic, German, Italian, Mandarin, Spanish and Urdu. Qualifications in other languages have been offered in the past and subsequently withdrawn, such as Norwegian, Swedish and Russian, for example. Language selection is left up to local authorities and individual schools; so, while the policy promotes the inclusion of allochthonous languages spoken by pupils in the school curriculum, there is no obligation placed on schools to adopt this inclusive approach.

⁴⁵ The only point at which EAL provision is mentioned in the Scottish Government's response to the LWG's report for the 1+2 Approach is in the acceptance of the recommendation that EAL provision is incorporated into local authority strategies for implementing the 1+2 Approach (Scottish Government, 2012b).

It is also of course important to recognise schools will require a range of resources, not least teacher training and teaching materials, that necessitate some longer-term planning and development. The lack of sufficiently qualified allochthonous language teachers could hinder efforts to expand language teaching: despite the development of SQA qualifications for Urdu, for example, there remain no Urdu teaching qualifications available at Scottish universities (Hancock and Hancock, 2018). In fact, there has been a decline in teacher numbers across most languages in Scottish secondary schools: despite an increase for Spanish and “Other Modern Languages”, there was a decline in teacher numbers for French, German, Italian and “Community Languages” between 2007 and 2017 (McFarlane et al, 2018: 22). The LWG recommended the value of Foreign Language Assistants, but McFarlane et al (2018) found that at least sixteen local authorities did not employ any. At the primary level, McFarlane et al (2018) argued that there was not yet a sufficient understanding of how expanded language teaching could be implemented: “we don’t know what provision there is to achieve that” (McFarlane et al, 2018: 7). They noted that most Scottish local authorities do not employ language teachers at this level and concluded that the Scottish Government should undertake an audit of language teaching capabilities among primary school teachers, and of current provision, in accordance with the LWG’s recommendation (McFarlane et al, 2018). Measures do appear to have been taken to address this, however. The Languages Strategic Implementation Group (LSIG) (Scottish Government, [2019c]) guides the implementation of the 1+2 Approach and has published a series of meeting minutes and implementation plans, reporting progress such as the adoption of “practical toolkits” related to language teaching and learning as Initial Teacher Education (ITE) resources. A pilot training programme for primary teachers focused on French and Spanish was evaluated, and subsequently developed to include German and Mandarin, while modern languages may also be incorporated into the ITE primary education programme (LSIG, 2019).

Nevertheless, in evaluating this policy and the nature of its implementation, it does appear that the current approach to language teaching in Scotland is not in line with the measures established by Directive 77/486/ECC. The lack of provision for significant allochthonous European languages such as Polish does not further *Directive 77/486/EEC’s* objective of facilitating potential reintegration in the EU member state of origin through teaching or

otherwise supporting competency in those languages. Although, as noted in section 3.3, *Directive 77/486/ECC* does not impose any specific requirements on member states with regard to Article 3 (CoEU, 1977), due to the vague framing of the obligation, it nevertheless encourages an inclusive approach that promotes allochthonous European language learning so as to facilitate mobility within the EU.

The lack of provision for many allochthonous languages in Scottish schools seems counter to this objective, particularly in the case of Polish, considering its significant speaker community in Scotland and the 1+2 Approach's recommendation that schools consider teaching the "community languages of pupils in schools" (Scottish Government, 2012b: 18). Its exclusion from the curriculum means that language teaching in public schools does not reflect the linguistic composition of Scotland and potentially hinders inclusion. Intra-EU mobility has resulted in Polish becoming more established in Scotland, with a significant speaker community present, but competency in and the intergenerational transmission of Polish appear to not be a priority in the education system and an inclusive approach to language teaching has not, on the whole, been adopted. In addition to failing to fulfil *Directive 77/486/EEC's* aim of facilitating reintegration and linguistic inclusion in the EU state in question, this could be a barrier to inclusion for the Polish-speaking community in Scotland.

Furthermore, the exclusion of significant allochthonous languages from the Scottish education system risks reinforcing negative perceptions of linguistic diversity and multilingualism. The fact that many of the allochthonous languages spoken by pupils at home are not included in language teaching, particularly with regard to school qualifications in languages, while other, less widely spoken, allochthonous languages such as French and German remain "popular" (Hancock, 2014a: 174), does not promote a positive attitude towards the former. This could communicate that the languages overlooked in the education system are not valued as highly as those that are traditionally, and relatively consistently, taught, which might reinforce negative perceptions of them among the public in general and within their own speaker communities.

3.6 Implications of the legal context for public services in Scotland

This analysis of the legal context in which Scottish public services are operating highlights that there are relatively few specific or explicit legal norms established at the UK level and, while there are several international treaties and laws of significance, their implementation is often incomplete. The language-related rights that are derived from international instruments do establish some important obligations, particularly with regard to protection from discrimination and language support within the justice system, for example.

Additionally, the importance of competency in a state language is foregrounded in EU law (*Directive 77/486/EEC*) and in the UK's adoption of language requirements as part of the immigration and citizenship processes. On the whole, however, those legal and policy norms that relate more explicitly to provision for allochthonous languages and their speakers tend to consist of less specific requirements, such as Article 3 of *Directive 77/486/EEC*, and this is true even in Scotland, where the Scottish Government encourages the teaching of a more diverse range of allochthonous languages but does not enforce it.

There are several factors that may affect this situation in the future, such as the UK's withdrawal from the EU and subsequently the possibility that the norms established by the EU will not apply in the UK. It should also be noted that, while there are some criticisms to be made concerning Scotland's *ASL Act* and 1+2 Approach, they nevertheless represent significant developments in domestic legislation and policy that recognise and address language needs and the linguistic diversity in Scottish schools. It is possible that future developments may increase their impact; particularly in the case of the 1+2 Approach, which was designed to achieve its goals by 2021. Given the aforementioned challenges, however, namely the lack of curriculum development and resources for allochthonous languages that have not traditionally been taught, the outlook is perhaps not encouraging. It will be interesting to see the next steps following the conclusion of that projected timeframe.

Chapter Four: Language provision in the Scottish public sector: policy and practice

The preceding chapter addressed language-related legal and policy obligations that have been established by supranational, UK and Scottish institutions that are relevant to equalities issues and public sector language provision. Chapter Four, on the other hand, will focus on the local context within the research setting established in Chapter Three: Edinburgh and Glasgow. Public services must respond to the needs of service users, which can result in fairly localised approaches, particularly when few UK and Scottish frameworks or obligations exist, developed according to the requirements of communities in that area. The first section of the chapter, 4.1, will highlight common themes that emerged across those public services that were evaluated: the SCTS, NHS Lothian, NHS GGC, the CEC, GCC and education services in each city. Section 4.2 will address frameworks developed at the local level, considering strategies and guidance provided by public bodies in Scotland with regard to equal access for service users who are not proficient in English.

This analysis of language-related policy in Scotland will contextualise the discussion of practice in section 4.3, allowing for a closer evaluation of language provision in the selected public services, including online provision, and of the norms and challenges that shape it. This is an important aspect of overall provision, since it can be the first point of access for service users and assists members of staff in delivering services in line with equalities principles. Section 4.4 will bring together these discussions to draw conclusions about the current position of multilingual services within the Scottish public sector and the challenges encountered by service providers. It will consider the implications of existing provision and any constraints faced in service delivery for mobility, inclusion and language policy more widely.

4.1 Service demand and common themes: a cross-service perspective

4.1.1 Language needs encountered across Scottish public services

As shown in section 1.3.2.2, the public services discussed in this thesis serve populations with varying linguistic compositions and, given the locally determined nature of the language support available to service users, it is useful to illustrate the language demand to which this support responds. This section will discuss data, obtained through research interviews and related communication, regarding the language needs of service users and how service providers aim to meet those needs. Before detailing the language demand across different services, it should be noted that a common factor identified was the shifting nature of that demand. This was in accordance with international socio-political factors and associated migration, which influence local demographics and therefore alter service demand due to the language needs of newly arrived residents (ITS Manager, 2017; Stewart, 2017; Jaouen, 2018; Zduniak, 2018).

During the interviews relating to both NHS GGC and the CEC, for example, increased demand for language support in Arabic, due to international conflicts and asylum processes, was noted (ITS Manager, 2017; Stewart, 2017). In addition to Arabic, the CEC has seen a rapid growth in demand for language provision in Kurdish since the Syrian Vulnerable Person Resettlement Programme (SVPRP) was established (ITS Manager, 2017). Local authorities, due to their remit, provide notable support to refugees regarding a range of practical concerns – including housing, education and employment – and issues related to cultural integration and English language learning (CEC, 2019a; the Welcoming, 2019). In some circumstances, children's social services are additionally engaged in order to support unaccompanied minors (ITS Manager, 2017). In addition to the aforementioned socio-political and demographic factors, Mr Stewart (2017), who was interviewed regarding NHS GGC provision, also highlighted that the linguistic integration of subsequent generations can influence shifts in service demand: English language learning and potential language shift

among allochthonous language communities,⁴⁶ particularly those with more recently arrived members, can affect service demand.

Due to the localised nature of provision, interpreting services must remain adaptable and, as noted in the interview with NHS GGC, languages for which there has previously been little demand can quickly become frequently requested (Stewart, 2017). For NHS Boards and local authorities in particular, communication between different departments can assist in service planning: examples mentioned included the management of Arabic resources in response to new arrivals through the SVPRP and cases in which patients require interpreting for appointments with multiple services or for long-term care (Stewart, 2017). It was stated in the interview pertaining to NHS GGC provision that local policy⁴⁷ tended to be the primary focus of service development, although relevant UK and Scottish legislation and policy, such as the *British Sign Language (Scotland) Act 2015* (the *BSL Act*), was also acknowledged (Stewart, 2017).

Beginning with the SCTS, in 2016, requests for interpreting and translation were most often received for: Polish, Romanian, Russian, Lithuanian, Urdu and Arabic, although the complete record of the 69 languages in which that support was required in 2016 illustrated that there is a wide range of language needs⁴⁸ accommodated by the SCTS (Zduniak, 2018). In comparison to the language demand experienced by other services, which will be detailed below, the six languages most frequently required by those engaging with the SCTS differ. The prominence of Polish was a common factor (although recent shifts have resulted in Polish no longer being among the three languages in which support is most often requested from GCC) but the demand for Lithuanian and Russian, in particular, in the justice system is notable. Regarding translation, the documents that are most commonly translated into

⁴⁶ Wright (2016: 246) argued that UK policy encourages the linguistic assimilation of allochthonous language speakers and, in the context of immigration, this has indeed become the norm within three generations (Dunbar, 2007; Lo Bianco, 2016; Hancock and Hancock, 2018). The possibility of language shift is therefore rather high and as such, changing language use within families and, more widely, within communities, can influence service demand.

⁴⁷ See section 4.2.3.1 for a discussion of NHS Scotland strategies.

⁴⁸ The languages requested in 2016 were: Albanian, Algerian, Amharic, Arabic, Bengali, Bengali Sylheti, Bosnian, Bulgarian, Cantonese, Croatian, Czech, Danish, Dari, Dari (Afghani), Dutch, Edo, Estonian, Ewe, Farsi, Filipino, French, Georgian, German, Greek, Hindi, Hungarian, Igbo, Italian, Japanese, Korean, Kurdish, Kurdish Kermanji, Kurdish Sorani, Latvian, Lingala, Lithuanian, Malay, Malayalam, Mandarin, Mandinka, Ndebele, Nepalese, Oromo, Pashto, Polish, Portuguese, Punjabi, Pushto, Romanian, Russian, Shona, Sinhalese, Slovak, Slovene, Somali, Spanish, Swahili, Swedish, Tagalog, Tamil, Thai, Tigrinya, Turkish, Twi, Ukrainian, Urdu, Vietnamese, Wolof and Yoruba (Zduniak, 2018).

languages other than English are Bail Orders; a number of these, translated into the most often-required languages, were stated by the SCTS interview participant to be available on the SCTS intranet (Zduniak, 2018). Reportedly, the languages that are most often required by those interacting with SCTS services remain fairly consistent but, since demand does tend to reflect demographics, the aforementioned migration patterns play a role in shaping demand (Zduniak, 2018). Other factors related to the justice system may also have an impact, such as court cases that lead to unexpected growth in demand for a particular language, or for languages that are rarely requested, in which case, providing support was characterised as potentially challenging, if interpreters for that language are unavailable. It is nevertheless considered mandatory to fulfil those language requirements (Zduniak, 2018), for which specific language-related obligations have been established, as discussed in section 3.2.

Turning to healthcare, the five most commonly requested languages reported by NHS Lothian were: Polish, Arabic, Cantonese, Mandarin and BSL (Jaouen, 2018). It was noted by the interview participant that service demand has increased in recent years and that, as in several other public services included in this research, a shift in the languages most frequently requested has occurred: Cantonese was recorded as the second most often-required language for NHS Lothian patients until early 2016, when demand for Arabic increased (Jaouen, 2018). In the past, there was significant demand for Cantonese, Mandarin, Urdu and Punjabi, which has lessened over time, reportedly because speaker communities became more established, with the result that English language proficiency is more widespread among subsequent generations (Jaouen, 2018). Ms Jaouen (2018) noted challenges faced in determining accurate numbers of service users accessing language support, such as the now rather outdated 2011 Census data and the fact that the data collection was in English, and commented that the residents who need interpreting support in order to access public services are therefore unlikely to have responded to the census. At the time of the research interview, NHS Lothian's recently launched in-house interpreting and translation service did not yet monitor the numbers of patients accessing it, although it was stated that a mechanism would be developed to allow the tracking of usage (Jaouen, 2018).

Data provided by the Team Lead of NHS GGC’s interpreting service (Stewart, 2017) showed that, between April 2016 and April 2017, the ten most often requested languages were: Arabic, Polish, Mandarin, Romanian, Urdu, Farsi, Slovak, BSL, Punjabi and Cantonese. According to Mr Stewart (2017), if the data had been gathered again at the time of the research interview, Vietnamese would likely feature on the list, while demand for Mandarin and Romanian would have decreased, though Arabic remains “by far” the most often requested language. It was also noted that approximately 4.1% of NHS GGC’s patients are from BME communities and that, according to estimates based on 2011 Census data, approximately 1/20 patients who attend NHS GGC outpatient appointments either cannot speak English or speak another language as their L1 (Stewart, 2017). Mr Stewart (2017) commented that NHS GGC operates the largest in-house public service interpreting service in the UK, which was also noted by the NHS Board’s Chief Executive, Robert Calderwood ([2015]), and receives more than 500 interpreting and translation requests every day. The overall number of interpreting and translation requests, he stated, has risen, with approximately an 8% increase year on year and a fourfold increase in demand since 2007 (Stewart, 2017). It should be noted that, in addition to increasing linguistic diversity in the region, such growth in service demand may be related to previously unmet demand among service users (Stewart, 2017), as the awareness and engagement of language provision grows.

The CEC’s Interpretation and Translation Service (ITS) has reportedly also experienced a rise in service demand in recent years: “the demand [...] is actually going up and up and up and we are trying, endeavouring our best to meet that demand on a daily basis” (ITS Manager, 2017). Table 8 lists the ten languages for which the CEC and NHS Lothian⁴⁹ received the most interpreting and translation requests in 2016. The aforementioned shifts in language demand over time can be observed when comparing the 2016 data with the data that were included in a report published in 2004, for example, which listed the most often-required languages as: Chinese, Urdu, Bengali, Arabic, Turkish, Punjabi, Spanish, Italian, Portuguese and Kurdish (CEC, 2004: 4). My master’s research in 2013 highlighted the relevance of EU membership expansions, after which service demand for, and corresponding language

⁴⁹ At that time, interpreting and translation for NHS Lothian was delivered by the CEC’s in-house service.

provision in, Polish, for instance, increased, to the extent that a ‘Happy to Translate’ image⁵⁰ began to be included in Polish, in addition to the previously-provided Chinese, Bengali, Urdu and Arabic (Dundas, 2013). During my doctoral research interview regarding the CEC, more recent shifts in required languages were detailed, particularly the aforementioned growth in demand for Arabic provision: in fact, this had increased since the data for 2016 were collated and, at the time of the interview, Arabic had reportedly become the second most requested language (ITS Manager, 2017).

Table 8: List of the ten languages for which the CEC’s ITS received the most requests in 2016

Language	Proportion of ITS demand
Polish	42%
Cantonese/Mandarin	12%
Arabic	8%
Romanian	7%
Urdu	5%
Spanish	4%
Turkish	4%
Lithuanian	3%
Bengali	3%
Italian	2%
Others	10%

(ITS Manager, 2017)

Education services in Scotland fall under the remit of local authorities, so it is relevant to consider language needs in Scottish schools. In 2016, data collection for the Scottish School Statistics found that 149 different languages were spoken by state school pupils and that,

⁵⁰ A logo that is used to inform service users that they are able to request translations.

aside from English, the most common L1s were Polish, Urdu, Scots, Punjabi, Arabic, Mandarin, Cantonese and Romanian (Scottish Government, 2016b). These languages are also among the most significant according to the 2011 UK Census in Scotland (NRS, 2013h). Demand for EAL provision has increased in recent years (Scottish Government, 2016a, 2016b; Scottish Parliament, 2017b) as the linguistic composition of Scottish school populations has diversified: 44,311 EAL pupils were recorded (approximately 6.4% of the total pupil number, 693,251) in the 2018 School Statistics (Scottish Government, 2019f). These figures represent a significant increase from the data gathered in 2010 concerning EAL demand, when the number of EAL pupils was 22,740 (3.38% of the total pupil number), despite the smaller increase in total pupil numbers (Scottish Government, 2010a).

Since this research considers Edinburgh and Glasgow specifically, it is useful to consider the related data for each city. EAL provision in Edinburgh is managed by the CEC and is delivered as part of the Additional Support for Learning Service (ASLS). As shown in Table 9, the number of EAL pupils in the city's schools increased between the 2006/07 and the 2017/2018 academic years (CEC, 2019c: Appendix 3). The total number of pupils with additional support needs who were being supported by the ASLS also rose during the period in question, but as can also be seen from the data, EAL pupils continued to comprise a significant proportion of the pupils receiving such support (CEC, 2019c: [36]). The Scottish School Statistics for 2018 (Scottish Government, 2019e) revealed that, between 2012 and 2018, there had been an annual increase in the number of pupils in Edinburgh who were recorded as being members of BME communities, from 5,642 in 2012 to 8,706 in 2018.

Table 9: Pupils Supported by the CEC's ASLS in the years 2006–2018

Year	Total number of pupils supported by ASLS	Number of EAL pupils	Percentage (%) of total pupils supported by ASLS
2006/07	3,599	2,542	70.63
2007/08	3,961	2,965	74.85
2008/09	4,205	3,069	72.98
2009/10	4,609	3,373	73.18
2010/11	4,973	3,600	72.39
2011/12	5,252	3,721	70.85
2012/13	5,813	4,252	73.15
2013/14⁵¹	6,252	4,629	74.04
2014/15	6,534	5,046	77.23
2015/16	7,417	5,491	74.03
2016/17	7,386	5,493	74.37
2017/18	7,974	6,156	77.20

(CEC, 2019c: [36])

For GGC, service demand seemingly remains fairly steady and the total number of requests received by the service over the past three years had fluctuated relatively little – as can be seen from Table 10. There has been a very slight shift in language demand over the past three years: in 2016/17, the three most requested languages were Arabic, Polish and Mandarin, and in 2017/18 and in 2018/19, Arabic, Farsi and Mandarin were most often required (Operations Manager, 2019). This differs from the previously mentioned services, for which Polish was either the first (ITS Manager, 2017; Jaouen, 2018; Zduniak, 2018) or the

⁵¹ It should be noted that the figures for the academic year 2013/14 were in some cases estimated due to the transition that year from five individual support services to one consolidated service (CEC, 2019c).

second (Stewart, 2017) most commonly requested language. This is in line with the data shown in Table 4, and discussed in section 1.3.2.2, concerning the implications of the 2011 Census findings, which illustrated that the Polish-speaking community was the largest allochthonous language speaker community in Edinburgh, whereas the largest speaker communities in Glasgow were non-European allochthonous languages. It should be noted, however, that Table 4's census figures regarding Arabic perhaps did not reflect the rise in Arabic speakers that reportedly occurred in subsequent years (ITS Manager, 2017; Stewart, 2017).

Table 10: The five languages most often requested by GCC departments over a three-year period

	April 2016 - March 2017		April 2017 - March 2018		April 2018 - March 2019	
	Number of requests	% of total requests	Number of requests	% of total requests	Number of requests	% of total requests
Arabic	6,273	29.38%	4,986	25.46%	4,966	23.79%
Polish	2,023	9.47%	1,412	7.21%	1,213	5.81%
Mandarin	1,858	8.70%	1,813	9.26%	2,129	10.20%
Farsi	1,570	7.35%	1,935	9.88%	2,174	10.42%
Romanian	1,726	8.08%	1,247	6.37%	1,211	5.80%
Kurdish (Sorani)	525	2.46%	882	4.50%	1,361	6.52%

(Operations Manager, 2019)

The *Equality Progress Report 2019* (GCC, 2019a), which will be addressed in more detail in section 4.2.4.2, provided figures related to EAL needs in Glasgow: 10,487 pupils in Glasgow were recorded as having additional support needs; over 12,000 were EAL pupils and more than 10,000 pupils were members of BME communities (GCC, 2019a: 18). This appears to be in line with the 2018 School Statistics data (Scottish Government, 2019e), according to which there were 14,763 EAL pupils in Glasgow, although 2,614 of these pupils were

categorised as “competent” in English. The 2018 figure for pupils from BME communities was notably higher than the number provided in the *Equality Progress Report 2019*, however: 15,679 (Scottish Government, 2019e). As in Edinburgh, the 2018 School Statistics additionally showed a yearly increase in numbers of BME pupils, rising from 11,073 in 2012 (Scottish Government, 2019e). While it should be noted that the overall pupil numbers are higher in Glasgow than in Edinburgh (Scottish Government, 2019e), it is clear from these figures and from the corresponding data for Edinburgh, shown in Table 9 and discussed above, that both EAL needs and numbers of BME pupils are significantly higher in Glasgow.

4.1.2 Common themes and challenges across services

4.1.2.1 Requirements for interpreting staff

Many of the public services included in the research specified accreditation that was required, or at least preferred, for the interpreters supporting their service users. The value of interpreters with the Diploma in Public Service Interpreting (DPSI)⁵² was mentioned in several research interviews. The DPSI was seen as ensuring competency in consecutive and simultaneous interpreting and in a range of translation skills, in addition to preparing interpreters for professional work that may include engaging with a variety of complex issues (ITS Manager, 2017). Due to the nature of local authority provision, interpreters may encounter complex cases related to, for example, child protection or supporting vulnerable service users, such as minors, refugees and asylum seekers (ITS Manager, 2017). This is true across services, with variations according to context – for example, interpreters in healthcare settings may attend appointments with minors or regarding terminal diagnoses, while those working in the criminal justice system may be engaged in challenging cases. The DPSI is considered to assist interpreters in such work. The importance of this was recognised during the discussion relating to GGC’s Linguistics Service, in which the Operations Manager (2019) observed that providing interpreters with training concerning the nature of working

⁵² This qualification is “a professional-level qualification offered by the Chartered Institute of Linguists” (CIOL) for interpreting and translation in the public sector (Edinburgh College, [2019]).

with local authority departments, and the issues that may present themselves in the course of providing language support, could be beneficial.

In the case of the SCTS, interpreters are required to have Disclosure Scotland (or Enhanced Disclosure)⁵³ accreditation if working with vulnerable witnesses, and the DPSI or an equivalent qualification, in addition to following the code of conduct developed by the external provider by which they are employed (Zduniak, 2018). These qualifications, certifications and guidance are deemed necessary due to the nature of interpreting within the justice system, in which a number of ethical issues may be encountered by interpreters.⁵⁴ For instance, it is necessary to ensure uncontaminated interpreting in police and court settings; as a case progresses, it was explained, different interpreters must be engaged (Zduniak, 2018). While *Enhancing the professionalising of interpreting*⁵⁵ recognised that the DPSI was generally considered to be a standard required for interpreters (Skills for Justice, 2013), it was noted that there was otherwise an absence of standardisation across the criminal justice system in terms of established criteria against which the competence of interpreters was measured or monitored, or, indeed, with regard to requirements concerning qualifications or experience among interpreters (Skills for Justice,⁵⁶ 2013: 16-18, 23).

With regard to healthcare, the DPSI qualification appears to be desired but not required. I was informed during the research interview pertaining to language provision in NHS Lothian that the majority of the interpreters working with the NHS Board have obtained the DPSI, an equivalent such as a master's degree in interpreting (which is considered a comparable qualification if the modules studied include those focused on interpreting in public services or community settings) or similar interpreting qualifications from other countries (Jaouen, 2018). According to Ms Jaouen (2018), fluency in a required language is not sufficient for

⁵³ This is a criminal record check (Scottish Government, 2019d).

⁵⁴ For examples of such issues, in proceedings related to Children's Hearings, see the Scottish Children's Reporter Administration's (SCRA) (2016) *Practice Direction 28 - Translation and Interpretation for Referrals, Children's Hearings and Related Court Proceedings*, which provided guidance for Children's Reporters about their responsibilities with regard to arranging language support and on working with interpreters.

⁵⁵ A document published by Skills for Justice (2013) following an evaluation of provision in the Scottish justice system, which will be discussed further in section 4.2.2.

⁵⁶ Skills for Justice is a not-for-profit organisation that aims to inform policy and standards and to support the development of higher quality services, and a more skilled workforce, across a range of sectors in the UK, including the justice sector (Skills for Justice, 2019).

NHS Lothian interpreters and there are high standards in place during recruitment, because those working directly for NHS Lothian are expected to be qualified, professional interpreters who are adept with the medical terminology required to work within healthcare settings.

Some NHS Lothian interpreters do not hold such a qualification, due to restrictions outside of their control that hindered the attainment of the qualification: for instance, the DPSI is not offered in all languages, is dependent on instructor availability and requires a minimum of three students, which means that it may not be available in certain languages are not widely spoken in Scotland – Swahili and certain varieties of Kurdish were given as examples (Jaouen, 2018). Although NHS Lothian reportedly tries to ensure that courses will run in Scotland, this is not always possible, and in some cases, interpreters would be required to undertake it elsewhere, which may not be feasible (Jaouen, 2018). While there are such exceptions, NHS Lothian nevertheless tries to promote the value of completing the DPSI, because holding the qualification is perceived to facilitate high quality provision, in addition to attracting higher pay and higher hourly rates; it is considered to be of benefit to both service users and interpreters themselves (Jaouen, 2018). Interpreters who have joined NHS Lothian’s interpreting service without the DPSI qualification also attend a two and a half day training programme organised in collaboration with Heriot-Watt University, which includes one day of theory about the interpreting profession, professional standards, ethics and good practice guidelines, a second day of practical training and feedback and half a day dedicated to a joint evaluation session in which trainees must identify good and bad practice in mock interpreting scenarios (Jaouen, 2018).

As is the case with NHS Lothian, ITS recruitment processes reportedly require the DPSI, or at least a qualification at degree level related to language, though the former is sought (ITS Manager, 2017). According to the ITS Manager (2017), these are the minimum requirements, in order “to maintain the quality of [the] service”, and only qualified interpreters are employed. The Operations Manager at GCC stated that approximately 60 of the 160 sessional⁵⁷ interpreters who support GCC’s service users are considered “qualified” because they have been awarded the DPSI and are paid at a higher rate by the service

⁵⁷ “An interpreter or translator who provides work on an hourly paid or occasional basis and who may be freelance and self-employed” (Scottish Executive, 2006a: 247).

(Operations Manager, 2019). Although not all of the interpreters working with the Linguistics Service have the DPSI, in the event that interpreters encounter difficult issues or cases through their work with the local authority, they should reportedly all have access to support services through GCC (Operations Manager, 2019). The benefit of interpreters holding the DPSI qualification is recognised in *Good Practice Guidelines* (Scottish Translation, Interpreting and Communication Forum (STICF), 2004) that will be discussed in section 4.2.1 and also in *Interpreting Guidelines* (NHS Health Scotland, 2008), which stated that new interpreters are expected to have been awarded the DPSI, or National Register of Public Service Interpreters (NRPSI) registration (although a qualifier was added), as will be detailed in section 4.2.3.1. Overall, it appears that the services in question all value the DPSI and prefer interpreters to have received this qualification, but that there is little cross-service standardisation and that this is, in general, a preference rather than a requirement.

4.1.2.2 Practical constraints facing service providers

A range of challenges were raised by service providers during the course of this research and practical constraints were a common theme. These constraints were related to resource limitations and, while financial resources were mentioned, human resources appeared to be the focus. As mentioned in section 4.1.1, adaptability and flexibility are crucial due to the shifting nature of service demand, both in terms of which languages are required and in terms of the volume of requests (Stewart, 2017). The availability of sufficient interpreters seemed to be a significant challenge, particularly in the cases of more rarely required languages, languages for which there is a sudden increase in demand, and BSL (Zduniak, 2018). It should also be noted that in many cases, service providers draw from the same group of interpreters, due to geographical factors (ITS Manager, 2017; Jaouen, 2018; Zduniak, 2018), and therefore can experience similar shortages, posing practical restrictions on provision (Zduniak, 2018). There is little that a service can do in terms of recruitment, it was argued, if qualified interpreters are not available, and Mr Stewart (2017) described occasions when patients' needs were unable to be met as very difficult "because at the end of the day, it's all about people".

The high service demand in healthcare can be a challenge in and of itself, as discussed in the research interview with NHS GGC, due to the fairly limited number of available interpreters and to the tendency for most appointments to fall in peak hours (between 10:30am and 3pm), which results in some patients being seen outside those peak hours due to insufficient interpreter numbers (Stewart, 2017). Furthermore, certain languages for which there is a lower demand (Mr Stewart (2017) gave Gujarati as an example, in the case of NHS GGC) may have even more limited numbers of interpreters available, across a large geographic area, which can lead to practical challenges when organising provision (Stewart, 2017). The remit of NHS GGC in terms of geography was also noted to complicate service delivery: most interpreters are based in Greater Glasgow and yet there is demand for interpreting provision across the GGC area (Stewart, 2017). Ms Zduniak (2018) highlighted the regional variations in interpreting demand that can complicate provision: language needs vary across different areas of Scotland and so does the availability of interpreters. Certain languages, for example, may have significant speaker communities in urban locations such as Glasgow and therefore demand in such locations may be more easily met, whereas in rural areas, providing interpreters may be more difficult (Zduniak, 2018).

A further challenge reported during the research interviews was the timescale of interpreting requests, which can present difficulties in securing the necessary language provision. Particularly in healthcare and criminal justice settings, due to the occurrence of emergency healthcare needs and the nature of police and judiciary processes, requests are often received at short notice (Jaouen, 2018; Zduniak, 2018). Such practical challenges were reportedly particularly difficult to manage in the early stages of developing NHS Lothian's in-house language provision, although the service provider was described as determined to limit the effects of resource constraints on patients and to ensure the highest possible quality of provision (Jaouen, 2018). Even once the service was fully established, these practical challenges reportedly continued, and NHS Lothian adopted the strategy of diverting more requests to telephone interpreting, particularly for GP appointments, in order to manage demand (Jaouen, 2018). While limitations to this form of language support, including the loss of visual cues, were acknowledged, it was described as "a good tool to have, so long as it's carefully used" (Jaouen, 2018). Face-to-face interpreting is considered

“quite a rare resource” and is mostly arranged for complex healthcare appointments and those in which telephone interpreting would not be appropriate (Jaouen, 2018).

During the research interview concerning NHS GGC, it was claimed that, in emergency situations, the interpreting service is often able to provide an interpreter within approximately half an hour and that, even during the triage process, telephone interpreting can be used in order to identify key information and requirements, following which face-to-face interpreting can be arranged (Stewart, 2017). Nevertheless, such practical factors, Mr Stewart (2017) observed, affect interpreters’ workloads and can place pressure on the interpreting service, in addition to posing difficulties for health professionals and to interactions between medical and interpreting services. Despite this, reportedly feedback remains positive, for the most part, as do the links between services (Stewart, 2017). The difficulty involved in fulfilling last minute requests was also mentioned in relation to the ITS, where language needs may also become apparent at short notice, or in the course of urgent cases⁵⁸ (ITS Manager, 2017).

Services that operate in similar geographical areas often rely on the same pool of interpreters so, even when external interpreting agencies are engaged, the interpreters they work with may overlap (ITS Manager, 2017). The availability of interpreters was identified as a significant issue: “[t]here are many practical challenges that our service faces on a daily basis and most of these are in relation to availability of enough qualified linguists” (ITS Manager, 2017). The ITS may also be unable to provide an interpreter for a particular language or dialect, either due to high demand and availability issues, or due to difficulties in sourcing interpreting for a language that is not widely spoken in Scotland, for example. This was echoed by the Operations Manager (2019) at GCC, who reported that one of the greatest challenges to service delivery is ensuring that language demand can be met despite the nature of working with sessional interpreters, who often work with multiple organisations and therefore have varying degrees of flexibility and must negotiate their availability (Operations Manager, 2019). The SCTS seemingly also encounters difficulties related to the availability of interpreters, particularly, Ms Zduniak (2018) observed, when

⁵⁸ When interpreting and translation needs for NHS Lothian patients were also met by the ITS, this was relevant to many requests received from NHS Lothian services, but it is also relevant to ITS demand from CEC departments such as social work and housing (ITS Manager, 2017).

providing support to users of certain languages that are consistently required, for which the pool of available interpreters is relatively small, such as BSL, so there can be challenges in meeting demand, and Ms Zduniak acknowledged that there can be more scope for mistakes to be made.

During the research interview, Mr Stewart (2017) discussed raising awareness of the interpreting provision available for language communities in which a significant number of members are illiterate and for whom the NHS GGC's usual strategies, which rely on written materials such as letters and leaflets, are therefore ineffective (Stewart, 2017). In order to adapt to such circumstances and facilitate equal access to language provision, alternative methods such as phone calls and home visits were adopted (Stewart, 2017). With regard to broader socio-political developments, an awareness of the potential challenges posed by the 'Brexit' process was expressed, with specific references to the possible departure from the UK of interpreters with whom the interpreting service works, or significant demographic changes that may affect service demand (Stewart, 2017).

Due to limited numbers of interpreters and increasing demand, service providers do have to use additional sources of language support in order to meet demand, and the challenges sometimes involved in working with interpreters from external agencies, for example, were raised in several research interviews. The CEC, for example, seemingly employs a limited number linguists (see section 4.3.3.1 for further details) and, as a result, sometimes finds it necessary to rely on external providers in order to meet service demand, engaging interpreters from agencies, which can hinder the quality of provision:

generally speaking, the standard of the quality of interpreters provided by external suppliers is not as high a level as [...] our interpreters are. But obviously at very short notice, we have to [engage them], an interpreter is better than no interpreter (ITS Manager, 2017).

The use of interpreters from external providers can be problematic for both service users and the interpreters themselves, according to the ITS Manager (2017), because interpreting agencies do not necessarily require the same qualifications as the CEC and may in fact require only fluency in a given language, even if the interpreter in question has no experience or qualifications in professional interpreting. While interpreters from external agencies may have the required language skills, they may not have been prepared for

engaging with the complex issues that can be encountered when working in public service interpreting and therefore may find such cases difficult:

The main challenge is basically finding qualified linguists because just being a native language speaker is not enough, [...] predominantly they are very complex situations, [...] children's situations with schools, or their specific learning requirements, or it could be anything in relation to social work, [...] so very involved and very complex family mediation situations, and also [...] child protection cases (ITS Manager, 2017).

Interpreters who work for agencies are often classified as freelance interpreters, which means that they do not necessarily have access to resources such as welfare and counselling services (ITS Manager, 2017). Access to training and support related to public service interpreting may therefore be limited for interpreters who work for external agencies and, given the issues that may be encountered through CEC cases, this could pose challenges. Additionally, there may be an impact on service users' experiences in those cases; the ITS does sometimes receive complaints from CEC officers and professionals who are dissatisfied with the quality of the interpreting (ITS Manager, 2017).

NHS Lothian does have to engage interpreters from external agencies in order to meet demand and does not expect agency interpreters who support speakers of rare languages to have obtained the DPSI, though there is still an expectation that they will receive training and support from the agencies that employ them (Jaouen, 2018). The fact that interpreters (particularly, given the above discussion, those engaged through external agencies) for certain languages are not subject to the qualification requirements applied to other interpreters seems problematic, given that the DPSI is clearly valued and fluency in a required language was stated to be insufficient (Jaouen, 2018). It highlights that, while service providers adopt policies and principles related to language provision, these may be compromised in the face of (human) resource constraints, in order to meet the basic language needs of service users. The discrepancy in practice potentially undermines equal treatment and equal access, however, because there is a risk that some service users receive lower quality provision. An agency with which NHS Lothian works with closely, Elite Linguists,⁵⁹ was described in the research interview as having a strong focus on training and high-quality interpreting and, as a result, is considered the primary agency that NHS Lothian

⁵⁹ This is a social enterprise that supplies interpreting and translation for NHS Lothian. The organisation's website is being redeveloped and is currently inaccessible.

engages (Jaouen, 2018). There are challenges involved when engaging external interpreting suppliers: working with interpreters from agencies that can offer prompt provision at short notice, even in rare languages, but can be problematic because some agencies do not apply the same quality standards as NHS Lothian require. Therefore, it is claimed that NHS Lothian takes care when engaging such suppliers, vetting interpreters, with all recruitment details available to NHS Lothian in order to guarantee high quality provision (Jaouen, 2018).

Public services across the UK may face challenges in times of limited funding, however, even if budget cuts are not imposed directly; if service demand increases, but resources do not, this can complicate service delivery. Financial constraints can influence strategy: for example, during my master's research, the cost of routinely translating CEC resources into languages other than English was described as "prohibitive" and was reportedly only done in response to specific translation requests or for documents that were deemed to be particularly important (Dundas, 2013). It was stated in the research interviews with both GCC's Linguistics Service and the CEC's ITS that no planned financial cuts were expected (ITS Manager, 2017; Operations Manager, 2019). When observing the lack of financial cuts, the ITS Manager (2017) highlighted the importance of language provision with regard to the CEC's equalities obligations: "no there hasn't been any attempt [to introduce cuts] because this is a very crucial and essential support that is needed by these citizens from these communities". Although funding for NHS GGC's interpreting service, which is allocated from the central NHS GGC budget (NHS GGC, 2011), reportedly remains stable, it appears to be expected that, in light of increasingly pressured resources across public services, there will be a continued requirement to consider possible "efficiencies" (Stewart, 2017).

Financial constraints also affect language-related education provision. EAL services are funded by local authorities as part of their ASLS provision but, even where that funding is ring-fenced, local authorities in the UK have experienced financial cuts in recent years. In the case of the two services focused on for the purposes of this research (the EAL services in Edinburgh and Glasgow), resources reportedly have not increased in proportion with the growing service demand (Depute Head Teacher, 2017; Scott, 2017). There is a tension, therefore, between increased service demand and budget constraints, and EAL services have had to adapt to this challenge.

The public sector is subject to financial constraints and as services experience increased language demand while navigating the practical challenges noted above, provision for those who require language support may be hindered. Several potential opportunities for development that could facilitate service delivery were mentioned during the research interview with the Operations Manager of GCC's Linguistics Service. These included the use of newer technologies, for instance video interpreting, in order to more efficiently meet service demand and maximise interpreters' availability, and of telephone interpreting, for brief exchanges of practical information (Operations Manager, 2019). Several technological resources that could facilitate provision were noted during the research interview pertaining to NHS GGC, as well, such as the possibility of utilising video interpreting through mobile applications such as FaceTime (Stewart, 2017).

4.1.2.3 Ethical concerns in practice

Several service developments have occurred in response to potential ethical issues related to interpreting. The use of service users' relatives and members of staff as interpreters, for example, was raised in both research interviews and in policy and strategy documents. The practice of allowing family members to provide interpreting appears to be widely discouraged across services – particularly with regard to children providing language support – for ethical reasons related to quality of provision, the responsibility that interpreting for someone entails and the potential for misinformation and abuses of power (NHS Health Scotland, 2008; NHS Lothian, 2010). A range of policy documents related to healthcare advised against the delivery of language provision by service users' relatives or friends (STICF, 2004; NHS Health Scotland, 2008; NHS Lothian, 2010; NHS GGC, 2012b, [2014b], 2015b; NHS Scotland, 2018b). These documents will be discussed in section 4.2, while this section will focus on relevant material from the research interviews.

It was noted during the research interview pertaining to NHS GGC that in the past, healthcare staff or patients' family members sometimes undertook interpreting responsibilities, but this has since been deemed inappropriate for a variety of reasons and is now a practice that the service aims to avoid "at all costs" (Stewart, 2017). Mr Stewart (2017) highlighted that such sources of language support result in interpreting of unknown

quality and result in ambiguity in terms of the accuracy of communication between healthcare professionals and patients, in addition to risking potential conflicts of interest and the misrepresentation of information, due to a desire to avoid causing alarm, for example. It was argued that, because the NHS GGC interpreting service has access to telephone interpreting through LanguageLine,⁶⁰ in addition to being able to engage its own sessional interpreters or, if necessary, interpreters from external agencies, it is possible to avoid recourse to non-professional interpreting provided by family members or NHS GGC staff members (Stewart, 2017).

Practices in relation to family members providing interpreting have also developed in NHS Lothian: generally, it is no longer permitted under the NHS Board's guidelines, excepting emergency situations in which it is the only option (Jaouen, 2018). Ms Jaouen (2018) highlighted, however, that NHS Lothian has adopted a particular position on this matter following work carried out by NHS Tayside while developing its own in-house interpreting service (using the NHS GGC model). That position holds that, if a patient were to decide that he or she would prefer to have a family member act as an interpreter, it is considered the patient's right to make that choice (Jaouen, 2018). Ms Jaouen (2018) noted that staff should nevertheless engage an interpreter through NHS Lothian, in order to protect themselves and ensure patients understand the advice and allow them to make informed choices. If, however, the patient's view does not change, then this should be recorded in the patient's notes and an interpreter should still be engaged through the NHS Lothian, in order to protect staff and to supervise, and intervene, if necessary (Jaouen, 2018). Ethical concerns regarding the use of children as interpreters were highlighted, because such a role is seemingly considered to place an unfair burden on children (Jaouen, 2018). Given the nature of interpreting, in addition to the complexities of interpreting in a healthcare setting, fluency in a given language is considered insufficient, and NHS Lothian has determined that allowing children to interpret on behalf of relatives is not recommended (Jaouen, 2018). As mentioned above, this appears to be in line with policies adopted by NHS Scotland and NHS

⁶⁰ LanguageLine is an interpreting and translation service (LanguageLine Solutions, 2019) that has been used by numerous public service providers, such as NHS 24 (2019e), to facilitate access for people who require language support, often through telephone interpreting.

GGC – all relevant policies will be discussed in more detail in sections 4.2.3.1, 4.2.3.2 and 4.2.3.3.

The issue of staff taking on interpreting roles is slightly more divided. Documents⁶¹ published by both the CEC and GCC mentioned the value of bilingualism among members of staff (CEC, 2004; GCC, 2005) in order to further inclusion and facilitate language provision, while interpreting being delivered by staff was approached more cautiously in the healthcare-related documents mentioned earlier in this section. NHS Scotland (2018b),⁶² for example, advised against this practice, unless the staff members in question are affiliated with accredited interpreting services, for quality control and legal reasons (see sections 4.2.3.1 and 4.2.3.2).

4.2 Language-related policy and strategy in the Scottish public sector

In addition to the supranational and domestic legal and policy instruments developed by the UK and Scottish governments, which were discussed in Chapter Three, public sector interpreting and translation provision in Edinburgh and Glasgow is delivered according to a range of policy and strategy frameworks developed at the local level. Supranational and national legal and policy documents such as those discussed in Chapter Three may be referred to, notably the *Equality Act 2010*. Whereas the instruments considered in the previous chapter establish legislative and policy obligations, those introduced by local branches of Scottish public services, or by national bodies that are relevant to local provision, such as the SCTS and NHS Scotland, tend to include more detail about implementation and to provide guidance on practice. Strategy and guidance documents produced by local service providers in Scotland offer an insight into the particular contexts in which those services operate and how they engage with language-related issues. As the subsequent discussion will illustrate, equalities considerations appeared to be guiding principles for language provision in the services evaluated here and were predominant themes in the documents that will be analysed in section 4.2, as well as in the research interviews and in the practice observed in the course of this research: “services like these,

⁶¹ See sections 4.2.4.1 and 4.2.5.3.

⁶² This document will be discussed in more detail in section 4.2.3.1.

like the interpretation and translation service, which are crucial in terms of the [CEC's] obligations to the Equalities Act and equal access to all citizens for all our services" (ITS Manager, 2017). Much of the following discussion of language-related guidelines and practices developed at the local level in Scotland is relevant to a variety of groups and communities, because language support in public services is provided for a range of allochthonous languages, both European and non-European. Service users to whom this provision is delivered may therefore be EU migrants, non-EU migrants, refugees or asylum seekers, long-term residents in Scotland or newly arrived residents, for example.

4.2.1 Language-related policy and strategy: Scotland-wide bodies

A number of national public bodies in Scotland, such as NHS Scotland and the STCS, have published strategy and guideline documents to facilitate local provision. These provide frameworks within which service providers at the local level coordinate provision, and in many cases the strategies are either directly language-related, or address language-related issues among other matters. Furthermore, many public service providers have established their own strategies and policy documents at the local level with which to plan multilingual provision and guide service delivery in response to service demand in that area.

It is essential to consider such policies and strategies because they provide the framework within which local provision is delivered and often take into account practical, 'on the ground' considerations, in addition to being connected to legal and policy norms established at the national and supranational levels. While the obligations of significant laws such as the *Equality Act 2010* are of course relevant, documents produced by public bodies themselves can be more grounded in practice and in local circumstances. Such strategies and guidance documents provide a noteworthy insight into provision because they aim to address circumstances and challenges that may be encountered during service delivery, in addition to highlighting good practice.

A number of documents have been produced that address language provision in public services across Scotland, such as the *Good Practice Guidelines* (STICF, 2004), *User*

perspective on interpretation and translation services (Scottish Consumer Council⁶³ (SCC), 2005) and *Review of TICS in Public Services* (Scottish Executive, 2006a), although such publications are perhaps now somewhat outdated. More recently, the Scottish Government (2011a) published the *Principles of Inclusive Communication* to facilitate inclusive practices by public authorities in Scotland, supporting members of staff in a range of leadership positions and in those engaging directly with the public. While the language-related issues it addressed were largely focused on demand for provision in BSL and on support offered by speech and language therapists, the significance of language provision more generally was recognised (Scottish Government, 2011a). Such publications suggest that the significance of good practice in public service interpreting and translation has been recognised in Scotland for some years now, however, which is a positive development in terms of inclusion and equalities.

The *Good Practice Guidelines* (STICF, 2004) aimed to establish national standards for public service interpreting and translation in Scotland for application to the type of public bodies examined in this thesis. An explicit connection was drawn between interpreting and translation provision and ensuring equality of opportunity, justice and inclusion, as early in the document as its Foreword, in addition to emphasising the importance of consistent provision across Scottish public services (STICF, 2004: [3-4]). The document was published prior to the *Equality Act 2010* and so reference was made to anti-discrimination legislation that preceded it, such as the *Disability Discrimination Act 1995* and the *Race Relations (Amendment) Act 2000*, in order to reinforce the importance of language provision with regard to ensuring equal access to services. In light of the two aforementioned pieces of equalities legislation, the *Good Practice Guidelines* (STICF, 2004: 2) stated that a public body's failure to respond to communication needs (or other needs) that hinder equal access to services "could amount to unlawful indirect discrimination", which reinforced the significance of the legal obligation placed on public service providers to meet the

⁶³ The SCC was established in 1975 by the UK Government with the objective of "promot[ing] the interests of consumers in Scotland, with particular regard to those people who experience disadvantage in society. [...] The people whose interests we represent are consumers of all kinds: they may be patients, tenants, parents..." (SCC, 2005: Copyright Information). It evaluated providers of goods and services according to a set of "consumer principles" that included access, choice, the provision of information and fairness, the latter of which is outlined as: "[a]re consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?" (SCC, 2005: Copyright Information). These four principles in particular are relevant to this research, which addresses the issue of equal access in the public sector.

communication needs of service users. The guidelines stated that “the Right to Understand” (STICF, 2004: 1) and to be provided with any needed communication support is “a civil right and fundamental to an inclusive and democratic society” (STICF, 2004: 1).

The document noted that challenges faced in accessing communication support represented obstacles to “full participation in Scottish life” (STICF, 2004: 2), which related the issue once more to inclusion, and identified several additional factors that may be barriers to such participation: a lack of awareness among BME communities concerning their rights in public service settings and a lack of cultural awareness among public bodies (STICF, 2004). These issues were raised in other parts of my research, including the research interviews that I carried out with service providers and further policy analysis that will be discussed in more detail throughout section 4.2. Additionally, the document reported that support for language provision in public services had “declined” (STICF, 2004: 3), although it did not state evidence or sources for this, at a time when the importance of social justice and social inclusion were increasingly being recognised (STICF, 2004). As part of the recommendation that Scottish public bodies should commit to the provision of accessible information and communication support, it was recognised that certain groups of service users have a restricted choice of options available to them “due to the limited range of information and communication available” (STICF, 2004: 9).

The *Good Practice Guidelines* provided relatively detailed guidelines regarding the identification and fulfilment of language needs among services users in Scotland. Standards such as the use of professional⁶⁴ interpreters, the use of visual images on documents made available to the public and the principle that “[u]nder no circumstances should public authorities rely upon family members or friends to provide an informal interpreting service” were highlighted (STICF, 2004: 13). The responsibilities of interpreters working in the public sector were also detailed, as were standards for translation provision, including a list of 39 questions relevant to the production of translated materials (STICF, 2004). Overall, the document provided a relatively clear set of guidelines concerning interpreting and translation provision in the Scottish public sector, clarifying the responsibilities of both public bodies and of interpreters and translators themselves, as well as highlighting the

⁶⁴ As mentioned in section 4.1.2.1, the value of the DPSI qualification was noted.

importance of language provision within public services to equality and inclusion issues.

Although there does not appear to have been an update or revision made to this document since its publication, it was referenced during the research interview pertaining to GCC as a useful resource that had contributed to the development of the Linguistics Service's internal policies and guidance (Operations Manager, 2019),⁶⁵ which suggests that it is still in use.

The following year, following work with focus groups, the SCC (2005) published *User perspective on interpretation and translation services*. This report concluded that, despite evaluations of public sector provision in Scotland (by local authorities, government departments and organisations such as the Commission for Racial Equality (CRE) (McPake et al, 2002)) and despite subsequent efforts to develop guidance and standards,⁶⁶ a lack of implementation and evaluation strategy had resulted in little change in terms of practice in the previous decade or so (McPake et al, 2002; SCC, 2005). It was noted in the report that concerns had been raised regarding the duplication of recommendations related to broader issues such as racial equality or disability rights, rather than to language support specifically, which had emerged in those earlier guidance documents (McPake et al, 2002; SCC, 2005). This factor, in addition to the ongoing lack of an established national interpreting and translation strategy, as well as repetition in the research that had been carried out with BME communities, had not, it was argued, facilitated changes in practice (SCC, 2005). The report noted that BME communities continued to face challenges in public services due to language barriers and that focus group participants had related experiencing difficulties in healthcare settings and in encounters with the justice system (SCC, 2005). Concerns about the quality of interpreting were also reported by participants: experiences with inexperienced or incompetent interpreters and additionally cases in which the participants themselves had been expected to assist in providing interpreting on an ad hoc basis (SCC, 2005: 30). Amongst the experiences recounted as part of the project were those in which participants felt that they "may not have received fair treatment because of language

⁶⁵ See section 4.3.3.2.

⁶⁶ For instance, those produced by the "Department of Health, the NHS Executive, Scottish Homes, the Scottish Executive, City of Edinburgh Council" and by the CRE (McPake et al, 2002: 48). Specific examples (McPake et al, 2002) of guidelines include the Association of Chief Police Officers in Scotland's (ACPOS) *Racial Diversity Strategy* (ACPOS, 2000) and *Access to information* (CEC, 2001).

difficulties” (SCC, 2005: 28), faced negative attitudes from members of staff or would not be taken seriously without communication support (SCC, 2005: 27-28).

In 2006, a review of language provision in the Scottish public sector, *Review of TICS in Public Services* was published, which noted that face-to-face interpreting in spoken languages was the language provision with the highest demand, with requests for “an ever-growing range of languages and dialects” (Scottish Executive, 2006a: 228). The review also stated that services were increasingly making use of telephone interpreting as “a back-up solution” (Scottish Executive, 2006a: 227) in urgent cases, or when other interpreting options were not available. Demand for translation services, on the other hand, was found to be more limited, for several reasons: face-to-face interpreting was described as a “more urgent need” (Scottish Executive, 2006a: 228); the production of translations was considered to be expensive and, while provision was often accessible “on request” (Scottish Executive, 2006a), there was little awareness of this service among service users. A summary of the research findings is readily available on the Scottish Government website in Arabic, Bengali, Cantonese, Farsi, French, Gaelic, Hindi, Polish, Punjabi and Urdu (Scottish Executive, 2006b). The document noted recommendations to promote greater awareness of language provision in general and to publicise the availability of translated resources upon request (Scottish Executive, 2006a: 236). Further recommendations included increasing interpreter numbers, offering and funding interpreter training, including training related to justice and mental health, in order to assist them in fulfilling national standards and the proposed “standardised qualifications across Scotland” (Scottish Executive, 2006a: 233).

The review also concluded that language-related information should be requested in the 2011 UK Census in Scotland, specifically suggesting the inclusion of “preferred language” and “special language needs” questions, because “[a]ccurate information on language needs is essential to inform policies in Scotland” (Scottish Executive, 2006a: 235). As was discussed in Chapter One, language questions were added to the UK censuses for the first time in 2011, although the phrasing used differed from those proposed in the review. Rather than including either of the terms above, which were used in the aforementioned review (Scottish Executive, 2006a), the 2011 UK Census in Scotland asked the following question: “Do you use a language other than English at home?”, to which the possible responses were: “No, English only”, “Yes, British Sign Language” and “Yes, other - please write in”

(NRS, 2018). Two questions regarding English language proficiency⁶⁷ were also featured in the census (NRS, 2018). The framing of the census questions thus focused on L1s and on practical language skills, rather than necessarily on language choices or preferences.

The Scottish Government's (2011a) *Principles of Inclusive Communication* stated that "[i]nclusive communication addresses the needs of people of all ages, people from different cultural and language backgrounds, and disabled people" (Scottish Government, 2011a: 2) and identified the participation of service users with different communication needs as an aspect of "[e]ffective user involvement" in public services (Scottish Government, 2011a: 12). The second principle included in the document recognised the diverse support and communication needs, including some that may not necessarily be obvious and may require alternative provision such as visual resources, found within every community and highlighted that this is true of both members of the public and members of staff (Scottish Government, 2011a). The importance of inclusive practices and their role in meeting both practical communication needs and equalities requirements was also noted: "[g]ood communication practice will help you reach your target audience more effectively and allow people to access services on an equal basis" (Scottish Government, 2011a: 9). The fifth of the "Principles of Inclusive Communication" detailed in the document highlighted the importance of inclusive approaches to language and communication needs among service users, with regard to both the experiences of service users and the pragmatic considerations of service providers: "Services delivered around the needs of the people who use them will be more cost effective, user friendly and fit for purpose" (Scottish Government, 2011a: 12). The value of engaging service users who have language support requirements in the development of services was also emphasised; while the potential for additional costs involved in facilitating their participation through the provision of interpreting and translation, for example, was acknowledged, the document noted that "the benefits of getting the change right first time will provide a more economic outcome in the long term" (Scottish Government, 2011a: 12). Furthermore, interpreting and translation provision was explicitly referred to as the example of good practice with regard to this particular principle:

⁶⁷ One of these questions also requested information on respondents' proficiency in Scottish Gaelic and Scots (NRS, 2018).

[w]hen planning a service change, think about how to support everybody to ensure they can be involved. This may mean training for staff before a consultation, or interpretation and translation and other forms of communication support available during a consultation (Scottish Government, 2011a: 12).

4.2.2 Language-related policy and strategy: the SCTS

As discussed in Chapter Three,⁶⁸ legislative obligations related to language provision within the justice system do exist, more explicitly so than with regard to other public services, although as the discussion throughout section 4.2 illustrates, those services have developed their own policies and strategies to guide provision. The research interview carried out with the Equality and Diversity Manager from the SCTS highlighted the significance of the service's obligation to provide language support to members of the public engaging with the Scottish justice system. The SCTS is obligated to meet language needs encountered by the police or by the courts, in order to facilitate access to justice (Zduniak, 2018) and guarantee a fair trial. This provision must be delivered when requested by or for those who state that English is not their L1, as it is reportedly not considered to be the SCTS' role to determine whether or not a request for interpreting and translation support is valid, and risk assessments are conducted in order to ensure that language needs are fulfilled (Zduniak, 2018).

The SCTS interview participant stated that the body does not have an in-house interpreting service, nor does it manage the planning of the service, as this is the responsibility of the organisations that supply interpreting, although there are regular meetings between the SCTS and its interpreting suppliers (Zduniak, 2018). Particularly considering the explicit obligations derived from international law regarding language provision in the justice system, responsibility for strategic planning being the remit of external suppliers seems remiss. Arranging language provision for interactions with the police, including provision required at short notice (for custody hearings, for example), is the responsibility of the police, although such language support is considered to be provided on behalf of the SCTS and is funded through the SCTS' budget (Zduniak, 2018). It was explained that, upon receipt

⁶⁸ See section 3.2, 'Language-related rights in international law' for further details.

of a request for language support, the first supplier is contacted and, in the event that this supplier is unable to deliver the necessary provision, the second supplier would be the next option, after which the request would be diverted to an interpreting agency outside of the SCTS' agreed contracting framework, but from a pre-approved list of agencies, if it were still unfulfilled, and finally an interpreter working in England would be engaged, at additional cost (Zduniak, 2018). The interpreting suppliers are responsible for both face-to-face and telephone interpreting (the SCTS no longer⁶⁹ uses LanguageLine⁷⁰ to fulfil telephone interpreting requests), the latter of which is mostly used in communication with offices and, occasionally, briefly in court settings (Zduniak, 2018).

Regarding the SCTS, a range of publications consider language-related issues in the justice system. The stated objective of the Working Group for Interpretation and Translation (WGIT) is to determine common standards for interpreting and translation provision in the Scottish justice system and it consists of representatives from significant criminal justice bodies, such as the Police Service of Scotland, the SCTS and the Law Society of Scotland (Skills for Justice, 2013). Skills for Justice (2013) published⁷¹ a revised edition of *Enhancing the professionalising of interpreting*, summarising the results of a project that aimed to evaluate the provision and standards, among other aspects, of interpreting and translation delivery within the Scottish justice system. The research into this issue included gathering data from service users,⁷² service providers,⁷³ educators and interpreters' associations such as the Scottish Interpreters and Translators Association (SITA) and the European Legal Interpreters and Translators Association (EULITA) (Skills for Justice, 2013: 7). When explaining the importance of professionalising interpreting services in the Scottish criminal justice system, the report referenced language-related rights relevant to the justice system, which, as discussed in Chapter Three, were established by instruments such as the ECHR

⁶⁹ This is a relatively recent change: the *Mainstreaming Equality Report 2017* (SCTS, 2017) referred to the Language Line service as its telephone interpreting supplier.

⁷⁰ See section 4.1.2.3, footnote 60, for further information.

⁷¹ In collaboration with a variety of organisations: Lothian and Borders Police, Strathclyde Police, the SCS (now SCTS), the Crown Office and Procurator Fiscal Service (COPFS), the Scottish Legal Aid Board and the Law Society of Scotland (Skills for Justice, 2013).

⁷² In this context, "service users" was the term used in the Skills for Justice (2013: 7) report in reference to Scottish criminal justice bodies that engage interpreting services: the SCS, the Scottish Legal Aid Board and Lothian and Borders Police, for example.

⁷³ The Skills for Justice (2013: 7) publication applies the term "service providers" to interpreting services that deliver language provision within the Scottish criminal justice system, such as Global Language Services Ltd. and Alpha Translating and Interpreting Services Ltd.

(CoE, 1950), and noted that there had been a small number of cases in the Scottish criminal justice system that had faced obstacles due to issues with the quality of interpreting provision (Skills for Justice, 2013: 17). The role of language provision in promoting equality in the criminal justice system was also recognised on the Crown Office and Procurator Fiscal Service's (COPFS, 2014) website: "Effective provision of Interpreting and translation services across the criminal justice sector in Scotland has long been accepted as an essential element in ensuring the fairness of criminal proceedings".

The scoping exercise concluded that, although it was necessary to consistently work to improve provision, the quality of interpreting in the Scottish criminal justice system was largely satisfactory (Skills for Justice, 2013: 15, 23). As mentioned in section 4.1.2.1, the evaluation had found that, although National Occupational Standards (NOS) in interpreting had been established for and by the interpreting profession, there was a lack of standardisation with regard to the qualifications required from interpreters and the monitoring of their competence (Skills for Justice, 2013: 16-18, 23). It was, noted, however, that it is the "operational application of knowledge and skill" that facilitates and advances competence among interpreters working within the justice system, rather than any qualifications held (Skills for Justice, 2013: 23). It was therefore concluded that it would be necessary to develop more collaborative work across the Scottish criminal justice system that would establish a standard of interpreter competence and also design learning and development opportunities that would endeavour to achieve that standard (Skills for Justice, 2013: 23).

The *Equalities Action Plan* (SCTS, 2014) reported progress towards two equality outcomes (among others) that were related to the *Equality Act 2010* and may indirectly engage language-related issues. The first outcome was focused on access to justice system services ("Our services are accessible to all court users including those with specific protected characteristics" (SCTS, 2014)⁷⁴), while the second was concerned with taking the needs of court users into account so that those who may experience discrimination or encounter access barriers are empowered in engaging with the justice system: "People who have specific protected characteristics feel confident about using SCS services because we have

⁷⁴ This document is provided as an excel file so there are no page numbers available.

tackled prejudice and promoted understanding of their needs”. Both of these stated equality outcomes were relevant to people who required language support, for several reasons: although language is not recognised as a “protected characteristic” under the *Equality Act 2010*, it may, as previously mentioned in sections 1.3.1 and 3.4.2.1 of this thesis, be indirectly included under the ‘race’ category, and furthermore, regardless of its status in relation to the *Equality Act 2010*, on a practical level, any existing language barriers would hinder equal access to services across the justice system. As a result, language requirements among court users are relevant to issues of accessibility and equality: the provision of support through which such needs can be met facilitates equal access, while also hopefully contributing towards a reduction in experiences of inequality.

The only explicit mention of language-related issues in the *Equalities Action Plan* (SCTS, 2014) is in relation to the second equality outcome mentioned above: “People who have specific protected characteristics feel confident about using SCS services because we have tackled prejudice and promoted understanding of their needs”. While this references language only by implication, practically speaking, language needs and related access issues would often be relevant to this outcome. The “Supporting Outcomes” and “Actions” that were committed to in order to further the equality outcome in question refer to collaboration and the sharing of good practice across Scottish justice system organisations and, in the report on the progress achieved so far, the *Equalities Action Plan* (SCTS, 2014) referenced a member of its staff who at the time represented the SCS on the WGIT, a cross-justice group considering interpreting and translation provision across the Scottish criminal justice system. It is promising to see that such a collaborative network had been established to address language needs among those accessing the justice system.

The SCS’ *Equality Statement, Outcomes and Guidance* publication (SCS, [2011]) outlined how legal obligations under the *Equality Act 2010*, as highlighted in its *Equalities Action Plan* (SCTS, 2014), would be fulfilled. As noted above, language issues are relevant to these equalities considerations – interpreting provision is only specifically referenced once within the document, however. The document addressed “positive action” measures (SCS, [2011]: 29), which were to be adopted to promote inclusion and equality for those considered to have “protected characteristics” under the *Equality Act 2010*, clarified how important

balance and proportionality⁷⁵ were to such measures, and included the provision of telephone interpreting (through LanguageLine) in all court offices as an example of such “positive action”. Similarly, the *Equality Outcomes 2015* (SCTS, 2015a) explicitly mentioned interpreting and translation provision only once, in relation to the WGIT, whose goal of establishing “common standards for interpreting and translating throughout the Scottish Criminal Justice System and across other areas of the justice sector where appropriate” was stated in the context of identifying networking groups within the Scottish criminal justice system (SCTS, 2015a: 14). The inclusion of the qualifier “where appropriate” appears to relieve some responsibility and raises questions concerning how this is to be determined, and by whom. The aims of the WGIT were included in more detail in the *Mainstreaming Equality Report 2015* (SCTS, 2015b) within the section titled “Embedding Equality within Criminal Justice System”. In addition to the aforementioned WGIT objective, this report noted three further objectives:

To consider the implications for the criminal justice system of local and European legislation in regards to interpretation and translation and make recommendations to the WGIT governing body; [...] To work collaboratively to influence and promote good practice in working with interpreters and translators; [and...] To share resources and develop joint initiatives in delivery of the WGIT’s action plan where appropriate (SCTS, 2015b: 11).

Minutes from a meeting of the SCTS Equalities Advisory Group (EAG) in November 2013 raised an issue regarding translated documentation within the Scottish justice system; it was expected that difficulties would arise concerning (unspecified) EU regulations and requirements for translated materials (SCTS, 2013). Following this discussion, the EAG considered further challenges relevant to translation provision within the justice system, such as (in)accuracies in translation and a lack of collaboration and standardisation across Scottish Government agencies (SCTS, 2013: 2). With regard to the degree of accuracy in translated versions of SCTS publications and written materials, the “dangers” of assuming that translations were correct were highlighted, while members of the EAG suggested that the “back translation”⁷⁶ strategy could be used to ascertain the accuracy of translations and

⁷⁵ In order to meet this requirement, the *Equality Statement, Outcomes and Guidance* publication (SCS, [2011]: 29) states that “the steps that are taken must tackle inequality whilst minimising the adverse impact on others”.

⁷⁶ Or “translation of a translated text back into its original language” (Son, 2018). This method involves “the back-translation and the original document [to be] compared for inconsistencies”, in the absence of which, the translation “is considered equivalent” (Tyupa, 2011).

the potential risks of using translation software such as Google were mentioned (SCTS, 2013: 2). Language varieties were also discussed, with regard to the omission of “community language” from the translation guidelines established by the Scottish Government, while the importance of translated documents using legal terms that are relevant to the receiving group was emphasised (SCTS, 2013: 2). Consistency across Scottish Government agencies with regard to translation approaches and terminology was also addressed: an organisation called the Minority Ethnic Carers of People Project (MECOPP, [2019]) had produced a standard glossary of translation terms and had assisted NHS 24 with developing its website, and the EAG determined that collaboration with other bodies could be beneficial (SCTS, 2013).

4.2.3 Language-related policy and strategy: healthcare settings

4.2.3.1 NHS Scotland

The Scottish Government passed the *Patients’ Rights (Scotland) Act 2011* and, in 2012, published the *Charter of Patient Rights and Responsibilities* (Scottish Government, 2012a) in collaboration with NHS Scotland. The former details the legal rights to which NHS Scotland patients are entitled, particularly the requirement that NHS Scotland will consider patients’ needs, wellbeing and agency, while the latter sets out not only those rights but also the responsibilities that NHS Scotland patients are expected to fulfil (*Patients’ Rights (Scotland) Act 2011*; Scottish Government, 2012a). The *Patients’ Rights (Scotland) Act 2011* clarified several significant patients’ rights with regard to the healthcare that they receive, which indirectly established legal obligations for healthcare providers, including the necessity of considering the needs of patients, taking into account what would improve their health and wellbeing and encouraging them to participate in their healthcare decisions, ensuring they are sufficiently informed and supported in doing so and providing opportunities for feedback and complaints (Scottish Government, 2012a). The *Charter of Patient Rights and Responsibilities* (Scottish Government, 2012a) did not create any new healthcare rights, but it did summarise the responsibilities of NHS Scotland’s patients, in addition to the patient rights that must be respected. While the *Patients’ Rights (Scotland) Act 2011* did not contain any explicit references to language-related issues, potential language support needs among

NHS Scotland patients were recognised in the *Charter of Patient Rights and Responsibilities*, specifically in the sections of the document that address healthcare access rights and rights concerning patients' communication and participation in their healthcare.

The section of the *Charter of Patient Rights and Responsibilities* that focused on access to NHS Scotland services (Scottish Government, 2012a: 6, "Access: your rights when using NHS services in Scotland") stated that patients have the right to request support in order to gain equal access to healthcare and clarified the relevance of this to users of languages other than English: "If you need an interpreter or a sign-language interpreter, or other communication support, ask a member of staff to arrange this for you in advance" (Scottish Government, 2012a: 6). Similarly, with regard to communication and participation, the document notes that patients have the right to ask for support in making decisions related to their healthcare and that this includes the right to request that NHS Scotland staff arrange interpreting provision (or other communication support), in order to fulfil their right to "be informed, and involved, in decisions about health care and services" (Scottish Government, 2012a: 10). The obligation on healthcare providers to facilitate equal access for patients extends further, however, as the *Charter of Patient Rights and Responsibilities* explicitly acknowledged patients' right to information about their healthcare and treatment in a form that they understand, with specific reference to the needs of patients who require provision in languages other than English:

You have the right to be given information about your care and treatment in a format or language that meets your needs (for example in audio format, British Sign Language or in a language other than English) (Scottish Government, 2012a: 10).

This phrasing is interesting and potentially allows for a broad application: although it frames the right in terms of language 'need' (the UK's "operative norm" (McLeod, 2008: 214)), it does not specify any condition based on degree of English language proficiency, so the concept of 'need' remains fairly open.

The fact that the rights of NHS Scotland's patients are safeguarded in a broader sense by the *Patients' Rights (Scotland) Act 2011* and in more detail in the *Charter of Patient Rights and Responsibilities* is promising, particularly since the latter relates the rights discussed in the preceding paragraphs specifically to the language needs of patients who cannot access healthcare through the medium of English. Additionally, it is noteworthy that the *Charter of*

Patient Rights and Responsibilities is aimed at NHS Scotland patients, informing them of their rights in healthcare settings and potentially also providing them with a resource with which to hold healthcare providers accountable if need be. The *Patients' Rights (Scotland) Act 2011* furthermore established and provided access to the independent Patient Advice and Support Service (PASS), which assists NHS Scotland patients in understanding their rights and responsibilities when engaging with healthcare services, in giving feedback to healthcare providers and in accessing further sources of support, such as advocacy (*Patients' Rights (Scotland) Act 2011*; Scottish Government, 2018b).

Recognition of the role that language provision plays in promoting equal access to healthcare can also be found in the Scottish Government's *National Health and Wellbeing Outcomes* (Scottish Government, 2015), which specifically mentioned language provision under the 'participation' category in its explanation of the "PANEL Principles" adopted in the Scottish healthcare system:

Everyone has the right to participate in decisions which affect them. Participation must be active, free, and meaningful and give attention to issues of accessibility, including access to information in a form and a language which can be understood (Scottish Government, 2015: 15).

This is another example of the importance of interpreting and translation services in healthcare settings being acknowledged in publications and strategies developed for and by NHS Scotland.

Healthcare Improvement Scotland (HIS) is a public body that aims to improve health and social care for Scottish residents. It has developed a person-centred care programme that aims to focus on the wishes and needs of NHS Scotland patients, their families and carers, which includes valuing patient feedback and needs when planning NHS service delivery (HIS, [2019a]). Nevertheless, challenges are encountered in service delivery due to language-related issues; good communication has been deemed to make a significant contribution to positive patient experiences (Scottish Government, 2011b: 14) so, where language barriers exist, service users may not receive the same quality of care, despite service providers' best intentions. In 2009, the National Resource Centre for Ethnic Minority Health (NRCEMH)⁷⁷

⁷⁷ Established in 2002, the NRCEMH received funding from the Scottish Executive to provide support to NHS Scotland – in particular NHS Boards around Scotland – in delivering quality healthcare to BME communities (Scottish Executive, 2003). Its objective is to "help ensure a quality health service that addresses the

published its *Achievements and challenges in ethnicity and health* report (NHS Health Scotland, 2009a), in which it stated that language-related issues remained an obstacle to accessing healthcare for some BME communities (NHS Health Scotland, 2009a: 20).

The NRCEMH's report identified a range of actions that had been taken by healthcare providers with regard to service access and delivery, including the use of video conference interpreting for patients at a doctor's surgery in Edinburgh, to help interpreters to support more people by reducing their travel time between appointments. Multicultural approaches had also been implemented in Glasgow, such as the establishment of a multicultural one stop clinic that "targeted all ethnic minority patients including asylum seekers and refugees with complex health problems" and provided "holistic care which recognises the influences of race, language, culture and religion" (NHS Health Scotland, 2009a: 14). In light of the enduring barrier that language posed in healthcare settings, however, the report highlighted that this issue represented a failure to meet a target set for all NHS Boards in 2002, which had been due to be met within twelve months, and that the NRCEMH had developed a national approach in order to ensure that healthcare providers met their service users' language needs, which, it was acknowledged, had been a slower process than hoped (NHS Health Scotland, 2009a: 21). The publication of *Interpreting Guidelines* (NHS Health Scotland, 2008) was referenced as an example of improvements achieved, but the report also noted ways progress had disappointed expectations and that "[c]ommunities cannot continue to highlight this as an area of need while seeing no significant progress" (NHS Health Scotland, 2009a: 21). Engagement with BME communities was highlighted as an area for improvement and as "a key requirement of legislation and policy around race equality for NHS Boards" (NHS Health Scotland, 2009a: 21).

Results from several of the Scottish Inpatient Patient Experience Surveys have suggested, for example, that patients who need interpreting provision in healthcare settings reported significantly more negative experiences when engaging with NHS services (Scottish Government, 2011b, 2017a). 30,880 people responded to the first survey in 2010, of whom 28,307 (92%) stated that they did not have any interpreting requirements, 459 (1%) did require interpreting provision and 2,114 (7%) did not respond to that question (Scottish

concerns of marginalised minority ethnic communities and facilitates the development of a sensitive and culturally competent service based on anti-discriminatory policy and practice" (Scottish Executive, 2003: 2)

Government, 2011b: 1, 14). The survey found that “[p]atients with translation, interpreting and communication support needs are generally less likely to report a positive experience than others” (Scottish Government, 2011b: 1) and noted particularly negative responses among these respondents concerning the following questions: “I understood what my medicines were for”, “I was confident I could look after myself when I left hospital”, and “I understood what was happening to me” (Scottish Government, 2011b: 14). Results from the 2016 Scottish Inpatient Patient Experience Survey showed that patients who needed interpreting or communication support were more likely than other patients to report negative experiences for all survey questions relating to care and support services, for four out of six of the questions concerning interactions with doctors, and for questions about being informed of feedback and complaint processes (Scottish Government, 2017a).

A webpage titled “Translation resources” (NHS Health Scotland, 2014a) forms part of the “Equalities” section on the NHS Scotland website and provides hyperlinks to a range of documents focused on guidance and strategy related to language provision within the Scottish healthcare system. The list of available resources featured on the web page consists of the following: the *Competency Framework for Interpreting* (NHS Scotland, 2011), the *TICS⁷⁸ Strategy and Action Plan* (NHS Health Scotland, 2010a), the *TICS EQIA⁷⁹ Report* (NHS Health Scotland, 2010d) and *Interpreting guidelines* (NHS Health Scotland, 2008). These documents will be discussed in the subsequent paragraphs.

In 2008, the *Equally Well* report⁸⁰ was published (Scottish Government, 2008), followed in 2014 by the *Health Inequalities Policy Review* (NHS Health Scotland, 2014b) and a related document (NHS Health Scotland, 2014c) highlighting the core messages of that review. Both documents are available on the NHS Health Scotland (2019) website. In 2008, NHS Health Scotland published *Interpreting Guidelines* (NHS Health Scotland, 2008), which provided guidance to frontline NHS Scotland staff on meeting patients’ language needs and on working with interpreters in healthcare settings. A great deal of detailed and practical information was included about processes related to language provision, communication with interpreters and interactions with both interpreters and patients. Additionally, the

⁷⁸ Translation, Interpreting and Communication Support (TICS).

⁷⁹ Equality and Diversity Impact Assessment (EQIA).

⁸⁰ A report by the Ministerial Task Force on health inequalities, which recognised that “[t]ackling health inequalities is a matter of social justice” (Scottish Government, 2008: v) and addressed a range of issues.

document signposted staff to additional resources on a range of topics, as well as visual aids utilising national flags that aimed to assist staff in identifying patients' language needs (NHS Health Scotland, 2008: 45-66). The document clearly stated the legislative obligation to ensure equal access to services and information for all patients; again, the guidelines preceded the *Equality Act 2010*, so the legislation referenced was the *Race Relations (Amendment) Act 2000* and this part of the document focused on racial discrimination (NHS Health Scotland, 2008). This was nevertheless related specifically to language needs, which illustrates the perceived relevance of language to equalities issues connected to race and ethnicity:

[t]he need to communicate in languages other than English is often implicit rather than explicit. Nevertheless, failing to provide interpreting facilities in relation to service provision, when it is known that there is a language barrier, could be construed as unlawful racial discrimination (NHS Health Scotland, 2008: 10).

The importance of engaging professional interpreters was emphasised (as noted in section 4.1.2.1): it was stated in the text that new interpreters are expected to have acquired the DPSI or to be registered on the NRPSI, although conditional language was utilised: staff were instructed to "aim" to ensure this, which suggests that it is not feasible to do so at all times (NHS Health Scotland, 2008: 19). It was explicitly stated that patients' friends or family members must not provide interpreting support, particularly in the case of children, and absolutely not in any cases that involve child protection, vulnerable adults or possible domestic abuse (NHS Health Scotland, 2008: 19, 22-24). It was recognised that there may be ethical and safety issues with allowing friends or family members to offer language support, as well as possible breaches of patients' rights, and the guidelines additionally addressed the issue of bilingual staff playing a role in language provision, a practice that was not recommended (NHS Health Scotland, 2008: 21). There are also potential issues of competence and therefore the risk that patients will not receive the quality of support they need. Several examples of specific instances in which such members of staff may interpret for patients were listed: when greeting them, explaining any delays or administrative problems experienced and obtaining information in emergencies, though it was noted that even those cases were not appropriate if the member of staff in question felt uncomfortable doing so and stated that any interpreting provided by members of staff must be recorded in patients' notes (NHS Health Scotland, 2008: 21). The document clarified that in clinical

settings, however, members of staff must not provide interpreting under any circumstances: such practice was identified as “unethical and unprofessional” (NHS Health Scotland, 2008: 21).

In line with recommendation 64 in the *Equally Well* report, which proposed the production of “an accessible communication, translation and interpreting strategy and action plan, with clear outcome measures” (Scottish Government, 2008: 41), NHS Scotland developed its *TICS Strategy and Action Plan* (NHS Health Scotland, 2010a), which was designed as “a framework for development and implementation of action at a national level” in order to drive improvements across Scottish healthcare (NHS Health Scotland, 2010a: 5). The strategy document outlined the importance of communication support in healthcare settings, including examples of the potential harm that could result from communication barriers, and acknowledged that factors such as patterns of immigration and the degree to which patients are aware of their right to access such support influence service demand (NHS Health Scotland, 2010a: 3). Legislative and equalities obligations were emphasised and it was noted that, although many NHS Boards had made progress with regard to communication support, some had not yet established a systematic approach and there remained a lack of national framework of support and resources (NHS Health Scotland, 2010a: 5). The benefit of good practice sharing between NHS Boards, either for direct application or as models, was highlighted in both the strategy and in a “TICS Outcomes Framework”. The latter identified both outcomes (national and high-level) and markers by which the attainment of those outcomes could be measured, and it was included in the appendices of the *TICS Strategy and Action Plan* (NHS Health Scotland, 2010a).

The *TICS EQIA Report* (NHS Health Scotland, 2010d) aimed to ensure that there were no discriminatory elements of policy development or service delivery within the Scottish healthcare system and that equality is promoted in healthcare settings. Under the report’s ‘race’ category, it was noted that increased language provision allowed patients greater independence⁸¹ and that there “may” be benefits to patients not being reliant on their partners for communication support (NHS Health Scotland, 2010d: 4). This comment,

⁸¹ This is another example of language being considered by public service providers when addressing equality issues related to race, reinforcing the relevance of language as an identity marker with regard to equalities obligations.

perhaps inaccurately, suggests that there was not, at the time, adequate awareness of the potential ethical issues that could be engaged by allowing a patient's partner to take on the role of interpreter. This does not appear to be the case, at least explicitly because, as mentioned earlier in this section, this ethical concern had previously been recognised in *Interpreting Guidelines* (NHS Health Scotland, 2008). Furthermore, mention was made, later in the EQIA report, of the likelihood that gender-based violence would not be reported if a patient's partner acted as an interpreter; as such, increased language provision was identified as beneficial (NHS Health Scotland, 2010d). Nevertheless, the framing of the aforementioned statement under the report's 'race' category did not acknowledge those issues.

The report recognised the possibility that service demand could exceed the supply at the time and raised concerns regarding staff training (NHS Health Scotland, 2010d). The perception that increased allochthonous language provision could signify a redistribution of funding – from English language teaching to interpreting and translation services – and “[m]ay discourage learning of English” was addressed with suggested collaboration between TICS services and ESOL teams in order to ensure that “both proceed with equal emphasis and appropriate resources” (NHS Health Scotland, 2010d: 4). In the section of the report that addressed “[l]iteracy and language issues” (NHS Health Scotland, 2010d: 10), it was recommended that alternatives to written communication be developed in order to ensure equal access for patients who were not literate in their own language or in English. A concern was raised in the same part of the report with regard to the possibility that service users could expect all healthcare information to be available in certain formats or languages “when some demands may not be met” (NHS Health Scotland, 2010d: 10), in response to which it was proposed that marketing teams should “manage” (NHS Health Scotland, 2010d: 10) such expectations. As will be illustrated later in this chapter, this approach appeared to shift over time, as NHS Boards committed to the provision of all documents in the languages and formats required by service users.⁸²

The aforementioned *Competency Framework for Interpreting* (NHS Scotland, 2011) aimed to facilitate the effective delivery of interpreting and translation services and to continue

⁸² See NHS GGC's (2011) *Accessible Information Policy*, for example.

improving the quality of that provision, supporting those engaged in its delivery – NHS staff, interpreters and interpreting providers – to patients in Scotland. The framework conceived of interpreting in healthcare settings as a “3-way interpreting process” (NHS Scotland, 2011: 3) – as an interaction between the patient who needs language support, the healthcare staff and the public service interpreter delivering the support – and consisted of specific guidance for NHS staff, interpreters and interpreting service providers (NHS Scotland, 2011). The guidelines provided ranged in nature from the practical details of appointments, to awareness of legislative obligations and their rationales, to training and support for both NHS staff and interpreters, to ethical issues (NHS Scotland, 2011). The clear, straightforward guidance included in the framework was relevant to provision across the country and it was additionally acknowledged, as early as the document’s Foreword, that variations between Scottish NHS Boards exist and thus it is necessary to shape services according to the local context: “As services and agreements differ across each geographical area in Scotland, this document can be adapted to include local information relevant to interpreting” (NHS Scotland, 2011: 2).

The National Union of British Sign Language Interpreters (NUBSLI)’s website (NUBSLI, 2019) features an article about a national policy consultation recently launched by NHS Scotland regarding interpreting and translation services, following its commitment to Scotland’s national *British Sign Language (BSL): National Plan 2017 to 2023 (the BSL National Plan)*, under which “an updated, clear, consistent and equitable approach for the provision of all interpreting and translation support services” must be developed (NUBSLI, 2019). It will be interesting to see any consultation responses that are relevant to allochthonous language provision and, indeed, any policy developments that may come of this. The same webpage (NUBSLI, 2019) additionally provides a link to a draft policy document produced by NHS Scotland (2018b), which noted the tendency of NHS Boards, while guided by the *TICS Strategy and Action Plan* (NHS Health Scotland, 2010a), to adopt local approaches to policy development, observing that a variety of models exist within Scottish healthcare with regard to services and provision.

The NHS Scotland policy document explicitly acknowledged the legislative obligation placed on Scottish healthcare providers to provide language support and highlighted the connection between language provision and equal access to healthcare services, referencing

the *Equality Act 2010* (and the Public Sector Equality Duty set out in s. 149 of the legislation) in its warning against allowing allochthonous language speakers to be disadvantaged in healthcare settings on those grounds:

There is a fundamental legal, ethical and moral requirement to provide interpreting and translation support services to patients, immediate family members and their carers who require it. All service users whose first language is not English must not be disadvantaged in terms of access to, and quality of healthcare received (*Equality Act 2010*). They have a legal right to effective communication in a form, language and manner that enables them to interact and participate in their healthcare and understand any information provided. [...] For some individuals, this can only be guaranteed if language support is provided (NHS Scotland, 2018b: 5).

This statement recognising the importance of language provision in healthcare and its significance to inclusion and equality appears to be in line with points found in numerous policy, strategy and guidance documents discussed throughout this section of Chapter Four (STICF, 2004; NHS Health Scotland, 2008; Scottish Government, 2012a, 2015). It is noteworthy to see such a recent and *national* policy document begin with a clear acknowledgement of this.

The national policy (NHS Scotland, 2018b) mentioned several legal, policy and strategy instruments that gave rise to its development, such as ECHR (CoE, 1950), the CRC (UN, 1989), the *Human Rights Act 1998*, the *Equality Act 2010*, the *BSL Act*, the *Patient Rights (Scotland) Act 2011*, the *Carers (Scotland) Act 2016* and the *Refugee Integration Strategy 2018-2022* (Scottish Government, 2018c). The draft policy set out a list of outcomes that would reflect its effective implementation, including staff awareness and fulfilment of patients' linguistic and cultural needs, the consistent delivery of language support ("to ensure fair and inclusive access to health services and information" (NHS Scotland, 2018b: 8)) and a greater understanding among NHS staff of the support required by interpreters and translators, particularly in cases that involve "vulnerable, sensitive or intercultural situations" (NHS Scotland, 2018b: 8). The latter outcome echoed issues raised during some of the research interviews and was perhaps also related to a subsequent outcome included in the national policy's list, which referred to the provision of "suitably qualified interpreters and translators" who have experience of healthcare settings (NHS Scotland, 2018b: 8). The benefit of public sector interpreters having achieved standardised qualifications was also recognised in other texts discussed in this section of Chapter Four, such as the following

documents: *Review of TICS in Public Services* (Scottish Executive, 2006a), *Enhancing the professionalising of interpreting* (Skills for Justice, 2013) and *Improving Access to Services Through Interpreting Provision* (NHS GGC, 2012c) report. Given that this policy document (NHS Scotland, 2018b: 9) established “a common set of standards for all NHS staff, interpreters, translators, and service users across NHS Scotland”, the inclusion of such a requirement indicates recognition of the value of professional, qualified interpreters and translators in healthcare settings.

The text of the *Interpreting and Translation - National Policy* (NHS Scotland, 2018b) additionally included practical guidance regarding language provision, as did a range of documents that have been analysed here.⁸³ The issue of language support being provided by members of staff and by patients’ friends or relatives was also addressed. The policy stated that bilingual staff who are not affiliated with an accredited interpretation or translation service should not interpret or translate in healthcare settings, for quality control and legal reasons: professional interpreters or translators are, it was argued, more able to provide high quality support and are also protected by indemnity insurance if a mistake is made (NHS Scotland, 2018b). The document further noted that, although bilingual members of staff may also be qualified interpreters or translators, potential legal issues could remain were they to offer their support to patients, as they could still be accused of conflict due to fulfilling two roles (NHS Scotland, 2018b). Healthcare services were also advised against using patients’ friends or relatives as interpreters or translators and instructed to never allow children to engage in such a role, for the same reasons as those found in the *Interpreting Guidelines* (NHS Health Scotland, 2008) and *Interpreting Policy* (NHS GGC, 2015b).

The development of a national policy addressing interpreting and translation provision across Scottish healthcare is significant and the policy document in question appeared to consolidate a lot of good practice guidance and recommendations that have emerged from different NHS Boards and bodies over the years, resulting in a policy that provides a framework for a coordinated approach to language provision in healthcare settings in

⁸³ See the discussions of the *Interpreting Guidelines* (NHS Health Scotland, 2008) and the *Interpreting Policy* (NHS GGC, 2015b) documents, for example.

Scotland.

4.2.3.2 NHS Lothian

Interpreting and translation services were developed by Scottish NHS Boards, seemingly in order to “bring up the standards” and ensure that interpreters and translators were qualified and vetted prior to supporting service users (Jaouen, 2018). As will be discussed later in this chapter,⁸⁴ language provision for NHS Lothian services was delivered by the CEC’s ITS for approximately twenty years, and healthcare constituted approximately 80% of interpreting and translation requests, while education, social care and housing (including homelessness) constituted most of the remaining 20% (Jaouen, 2018). Given that healthcare interpreting needs were so significant, NHS Lothian launched an in-house interpreting service in 2017 (Jaouen, 2018). Although it adopted many of the ITS’ principles, it also affords the NHS Board direct management of the interpreters working with NHS Lothian professionals and patients, the treatment of the interpreters as staff rather than as external providers, in addition to autonomy concerning the training offered and a chance to promote a “common approach” (Jaouen, 2018).

The establishment of this in-house service followed the NHS GGC model, and other NHS Boards in Scotland have subsequently begun a similar process (Jaouen, 2018). The CEC worked closely with NHS Lothian during the transition to the latter’s in-house interpreting service and the two public bodies shared information during the first few months following the establishment of the new service (Jaouen, 2018). Subsequently, communication and collaboration has decreased and has mostly focused on specific issues such as training invitations, details of arrivals as part of the Refugee Resettlement Programme, or particular challenges with an interpreter or case; circumstances in which, as two public bodies, they would work together (Jaouen, 2018).

NHS Lothian’s (2010) *Interpreting and Translation Policy* specifically addresses the realities of language provision for its patients. The document’s title page stated that the policy was due to be reviewed in September 2013, but it appears that an updated version has not been

⁸⁴ See section 4.2.4, ‘Language provision in Scottish local authorities’, for further details.

made available, and the 2010 edition of the policy document remains available on NHS Lothian's "TICS" (NHS Lothian, 2011a) webpage, which will be discussed in more detail in section 4.3. It therefore seems that the interpreting and translation policy developed and published by NHS Lothian may be somewhat outdated. One example of this may be the terminology used in the policy document and how this may have changed over time. The *Interpreting and Translation Policy* notes that the term "Limited English Proficient" will be used in the text, which "is defined as being unable to speak, read, write or understand English at a level that permits an individual to interact effectively with healthcare providers or social service agencies" and which, the document states, recognises that different contexts may involve different levels of communication and that assumptions regarding English language proficiency and understanding in different contexts⁸⁵ should not be made (NHS Lothian, 2010: 3). During the research interview with the manager of NHS Lothian's interpreting service, however, the interview participant in question informed me that describing those who require interpreting and translation services as "patients whose preferred language isn't English" is preferable to identifying them as patients with "limited English proficiency" (Jaouen, 2018).

As will be highlighted in section 4.3.2.1, this terminological choice appears to be reflected in online provision made available by other healthcare bodies, such as NHS GGC (2019b), NHS Scotland (2018) and NHS 24 (2019a, 2019e). As discussed in Chapter One, terminology usage can have significant impacts and, if the language used in healthcare settings has indeed changed in the years following the publication of this policy document, then making an updated and more accurate version of the policy available would be more helpful and more inclusive. The "Future Developments" section of the document stated that the *Interpreting and Translation Policy* would be "kept under review" and that it would be reviewed at least once every three years, with amendments made according to "changes in local demographics, technology, service delivery models, national policy and legislation" (NHS

⁸⁵ The *Interpreting and Translation Policy* explicitly addresses the effect of healthcare settings on the ability of patients whose L1s are allochthonous languages to communicate in and fully understand information delivered in English: "[i]llness and other stressful healthcare situations can have a negative impact on anyone's ability to communicate effectively but especially that of someone whose first language is not English" (NHS Lothian, 2010: 4). The policy document notes that even for patients who are usually comfortable communicating in English, doing so in stressful situations may be more difficult and may cause them to wish to use their L1 instead, in addition to commenting that a similar return to the L1 may occur among patients with dementia (NHS Lothian, 2010).

Lothian, 2010: 9). The fact that the 2010 edition of the document is signposted and available for download from the NHS Lothian website (NHS Lothian, 2011a), however, indicates that the planned 2013 policy review and the planned reviews every three years, which were referenced on the document's title page and in its "Future Developments" (NHS Lothian, 2010: 9), may not have occurred and, if they were undertaken, did not result in the publication of an updated version of the policy.

Despite this potential limitation, however, the policy in its 2010 form does set out important guidance on a range of topics relating to interpreting and translation provision for NHS Lothian service users, including: the guiding principles of provision; legal, ethical and business issues; policy implementation and the management of the interpreting and translation service; funding; monitoring; and circumstances in which interpreting and translation should be used (NHS Lothian, 2010). The document's Appendix 1 (NHS Lothian, 2010) references a range of relevant legal instruments: the *Gaelic Language (Scotland) Act 2005*, the *Human Rights Act 1998*, the *Disability Discrimination Act 1995*, the *Race Relations Act 1976*, the *Race Relations (Amendment) Act 2000*, the *European Charter for Regional or Minority Languages* (ECRML) (CoE, 1992), the *Universal Declaration of Human Rights* (UN, 1948), the CRC (UN, 1989), the *Convention Relating to the Status of Refugees* (UN 1951), and the *Convention on the Rights of Persons with Disabilities* (UN, 2007).

The *Interpreting and Translation Policy's* stated purpose is to ensure that patients who are unable to access healthcare through the medium of English are nevertheless able to access all of NHS Lothian's healthcare services efficiently and that the healthcare received is of a high standard (NHS Lothian, 2010). It furthermore sets out the four "Guiding Principles" of the *Interpreting and Translation Policy* (NHS Lothian, 2010: 3), which affirm the right of NHS Lothian patients and staff to communication support when needed, the fact that it is the responsibility of staff to ensure effective communication, using "approved" interpreters and translators, the provision of which must be free of charge to patients. The use of the term "right" in the context of entitlement to communication support is interesting, since this is not an explicit right derived from supranational or UK law. These principles are identified early in the policy document and are a clear, straightforward clarification of essential rights and responsibilities with regard to language provision across NHS Lothian services.

The Introduction to the *Interpreting and Translation Policy* (NHS Lothian, 2010) highlighted the significant impact of language barriers on healthcare provision and that such communication difficulties can compromise patient care and lead to misunderstandings. The text recognised that communication difficulties for those whose L1 is not English pose “a major barrier to accessing health care” and additionally hinder the delivery of “safe, effective, patient focused care” by healthcare staff (NHS Lothian, 2010: 3), both of which have significant implications for the standard of healthcare provided, as well as risk management and governance issues (NHS Lothian, 2010). The potential for misunderstandings between patients and NHS Lothian staff is also noted; the document points out that such misunderstandings may occur even in cases of shared language and culture but that their likelihood is increased when linguistic and cultural differences are present, which therefore heightens the risk of low quality healthcare and clinical errors (NHS Lothian, 2010). Among the “Legal and Ethical Issues” addressed in this policy document are a number of specific risks that may be encountered when working with patients who cannot access healthcare through the medium of English: they may not be able to provide informed consent, to ask for information and help, and to correctly understand or follow their care plans or their patient rights and responsibilities; they may not be aware of the NHS Lothian services that are available to them; and they may have different cultural understandings of health-related issues (NHS Lothian, 2010). These risks are also identified on two NHS GGC webpages that will be included in section 4.3.2.3’s evaluation of the NHS Board’s online provision (NHS GGC, [2017]; NHS GGC, 2019d).

NHS Lothian’s responsibilities regarding language provision were identified in the *Interpreting and Translation Policy* (NHS Lothian, 2010) as legal, ethical and business responsibilities. With regard to legal responsibilities, the aforementioned list of legal instruments was included in Appendix 1 (NHS Lothian, 2010), although the obligations derived from these instruments were not detailed. The text clarified that NHS Lothian’s ethical requirements were related to equal treatment of all patients, ensuring a high standard of healthcare and the informed participation of its patients in healthcare decisions (NHS Lothian, 2010). While it is promising to see a range of instruments that were established at various levels of governance (international, European, UK and Scottish) both recognised and incorporated into the NHS Board’s policy formation, it should be noted that

this list of legal instruments is also somewhat outdated now. For instance, the *Equality Act 2010* replaced previous anti-discrimination laws such as the *Disability Discrimination Act 1995* and the *Race Relations Act 1976*, consolidating such legal protections to marginalised groups in the UK into one piece of legislation. Additionally, with regard to autochthonous languages, although the *Gaelic Language (Scotland) Act 2005* remains in place, further developments have occurred in line with this piece of legislation, for example the production of Gaelic Language Plans by public bodies in Scotland, while the *BSL Act* – certainly has implications for the provision of communication support in healthcare (and other public sector) settings.

The more practical elements of NHS Lothian’s responsibilities fall into the business category used in the policy document, which centred on the inefficient use of resources that may result from communication barriers between patients and staff and may lead, for instance, to cancelled appointments, repeat patient admission, delayed discharge processes, non-compliance with treatment plans and also legal consequences if the NHS Board is accused of negligence or errors (NHS Lothian, 2010: 4). It is interesting that, in addition to the potential impact of patient and staff experiences, such practical implications of language barriers in healthcare settings were noted in the *Interpreting and Translation Policy* (NHS Lothian, 2010). The nature of policy implementation and monitoring within NHS Lothian was also clarified in the document, including the identification of circumstances in which interpreting and translation respectively are required, all of which provided useful details as to the processes in place for ensuring that patients’ communication needs are met by healthcare services (NHS Lothian, 2010). Furthermore, the purpose of monitoring processes was explained, highlighting that analysing service demand facilitates the improvement of provision and efficient and cost-effective service delivery:

Where English is not a patient’s first or preferred language this must be recorded in the patient’s demographic profile. This data is essential to ensure all patients receive the communication support they actually need. This data will be crossmatched with communication support requests to identify unmet needs and gaps in support delivery (NHS Lothian, 2010: 8).

The policy document notes that an annual review of language provision within NHS Lothian will be undertaken in order to assess “value for money and that patient needs are being addressed” (NHS Lothian, 2010: 9).

In the section of the policy document that focused on when interpreting should be provided and what form it should take, information was additionally included concerning the use of patients' family members, for example, as interpreters in healthcare settings (NHS Lothian, 2010: 6-7). The ethical issues⁸⁶ that may be engaged if such a practice were used were detailed and members of staff were advised against it, recommending “**extreme caution**” (NHS Lothian, 2010: 7, emphasis in original). Potential risks such as inaccurate or incomplete interpretation of patients' experiences – because either the patient or the family member is reluctant to reveal such details, for example – were explained and the policy informed staff that children, other patients and members of the public must never be allowed to interpret for patients (NHS Lothian, 2010: 7). In cases where a patient is informed of these risks, advised to receive support from an “approved interpreter” (NHS Lothian, 2010: 6) instead and nevertheless chooses to engage a family member in interpreting, it was stated in the document that this should be recorded in the patient's notes and that even in such cases, healthcare staff remain responsible for ensuring that the patient is able to participate in effective communication (NHS Lothian, 2010: 7).

The responsibility placed on NHS Lothian staff to fulfil language support requirements for those who cannot access healthcare through the medium of English, in line with the policy in question, is also emphasised, with examples provided: “[t]his includes recording language and support need, arranging interpreters and providing translations as appropriate” (NHS Lothian, 2010: 5). Details about how communication services are funded within NHS Lothian are also provided, which adds to the useful practical information included in the policy, in addition to certain operational details such as the fact that interpreting and translation provision must be organised through the CEC's ITS in order to be covered by central funding (NHS Lothian, 2010: 5). Notably, this is another detail that is no longer entirely accurate, as the delivery of such provision has changed since 2010. The *Interpreting and Translation Policy* (NHS Lothian, 2010: 9) refers to NHS Lothian's partnership with the CEC and states that interpreting and translation services for patients are provided through the local authority's ITS, which, as mentioned previously, is no longer the case. This may not materially affect the information in question, but it is a further example of the potential

⁸⁶ Some of the limitations and potential ethical concerns that may arise from this practice, from the perspective and experiences of service users, were noted in *User perspective on interpretation and translation services* report (SCC, 2005), which was discussed in section 4.1.

benefit and increased accuracy that an updated edition of this policy might offer.

Nevertheless, the explanation of such operational processes makes this document a useful resource for healthcare services and staff within NHS Lothian.

4.2.3.3 NHS Greater Glasgow and Clyde

The NHS Board's *Accessible Information Policy* (NHS GGC, 2011) was aimed at managers working within NHS GGC connected to the provision of information to patients and stated that there is a legal obligation to produce information for patients in accessible formats. As with several other documents⁸⁷ discussed in this chapter, the policy (NHS GGC, 2011) preceded the *Equality Act 2010* and as such it referenced equalities legislation such as the *Race Relations (Amendment) Act 2000* and the *Disability Discrimination Act 2005*. The protocol addressed the NHS Board's obligation⁸⁸ to ensure that patients are provided with healthcare information in an accessible format:

This does not mean watering down the content or creating a summary. This means taking information in a form that is not accessible to an individual, and changing, translating or interpreting it into a form the individual can access (NHS GGC, 2011: 4).

The benefits of such accessibility were acknowledged, including the fact that it facilitates social inclusion, in addition to key factors in healthcare settings such as ensuring informed consent (NHS GGC, 2011). The *Accessible Information Policy* (NHS GGC, 2011) provided a list of specific requirements with regard to the provision of information in required formats, including expected timeframes (for example, patients' or carers' requests for information in an accessible language must be fulfilled within four days), in addition to detailing staff roles and responsibility.

The document contained a range of specific guidance, including the necessity of featuring a statement (which informs patients that translations are available) on all NHS GGC

⁸⁷ Previously mentioned with regard to the *Good Practice Guidelines* (STICF, 2004) and the *Interpreting and Translation Policy* (NHS Lothian, 2010).

⁸⁸ The Protocol referenced several pieces of legislation from which legal obligations regarding equality and non-discrimination were derived: the *Race Relations (Amendment) Act 2000*, *Disability Discrimination Act 2005* and *Disability Equality Duty 2006*. As with other policy documents discussed in this section of the thesis, the reason that these laws were referenced is that the document was published prior to their consolidation with the passing of the *Equality Act 2010*.

documents, in the five most frequently required allochthonous languages⁸⁹ (NHS GGC, 2011: 6). It is noted in the policy document that the languages most commonly required by patients “change over time to reflect the composition of the Greater Glasgow and Clyde population” (NHS GGC, 2011: 6), which reflects the findings of the research interview (Stewart, 2017), and that the five translated statements in question are made available online for use on documents, updated annually to account for any such shifts in demand (NHS GGC, 2011: 6). This does raise questions about access, because a given language may have a significant or growing speaker community, yet still be surpassed in terms of demand by another language and thus no longer be among the five most often-required languages. Why, then, should its speakers not continue to be specifically and explicitly informed of their entitlement to translated documents?

NHS GGC’s equality mainstreaming actions and outcomes document, *Meeting the Requirements of Equality Legislation* (NHS GGC, [2015a]) was the third ‘Fairer NHS GGC’ report produced and outlines the NHS Board’s equalities objectives and the improvements that it aimed to make to its service provision. There is a monitoring element, too, as the publication details how NHS GGC has met its equalities obligations, as established in legislation, in addition to illustrating how measures that were introduced to guarantee racial equality across its services will be evaluated (NHS GGC, [2017]). Language provision is referenced early in the document: the Foreword mentions that NHS GGC’s Interpreting Service supports approximately 450 patients every day (NHS GGC, [2015a]: 2). The document also connected communication support needs with access to “fair and equitable” healthcare services (NHS GGC, [2015a]: 10) and noted that improvements had previously been made with regard to using patient referral information to arrange for additional support such as the provision of interpreters services (NHS GGC, [2015a]: 15).

In its work to promote equality and prevent discrimination, NHS GGC identified a number of Equality Outcomes relevant to the protected characteristics included in the *Equality Act 2010* and set out measures to be implemented in the pursuit of those aims. “Equality Outcome 3” was related to the ‘race’ characteristic under the *Equality Act 2010* and included language-related issues and multilingual provision (both interpreting and

⁸⁹ Arabic, Polish, Mandarin, Romanian and Urdu (Stewart, 2017).

translation) in the discussion of access and awareness challenges, as well as in the measures to be adopted in order to facilitate wider access to its healthcare services (NHS GGC, [2015a]: 22). The document emphasised the importance of both raising awareness of and arranging interpretation to NHS GGC's duty, under the *Equality Act 2010*, to eradicate discrimination, and identified race as the protected characteristic "covered" by these and other measures, with particular reference to access for "[p]eople who have migrated to our area, asylum seekers and refugees" (NHS GGC, [2015a]: 22). This is interesting in light of the fact that, as noted several times in this thesis, but particularly in Chapter Three, section 3.4.2.1, although language remains largely overlooked in UK domestic legislation (McLeod, 2008), there appears to be scope for language-related issues to be indirectly included in equalities measures that address the 'race' characteristic that is protected under the *Equality Act 2010*. Local policy, such as the document in question, is an example of this in practice. Limited knowledge of available healthcare, and therefore limited access to services, among migrants, refugees and asylum seekers was highlighted, with particular reference to support for gender-based violence and to out-of-hours, emergency and mental health services; various factors were mentioned that might hinder awareness and access in these cases, one of which was a lack of interpreting provision (NHS GGC, [2015a]: 22). The policy document therefore recognised the importance of ensuring that these patients are aware that they have an entitlement to interpreting support and of distributing translated patient documents to support those who cannot access healthcare through the medium of English (NHS GGC, [2015a]).

The role of social factors is also discussed as part of "Equality Outcome 6", with language barriers identified as an example of health inequalities and the necessity of reducing inequalities by addressing such barriers clearly stated:

[h]ealth inequalities can be mitigated through equitable provision of services and programmes, sensitive to social context [...] "Services' contributions to reducing inequalities come through ensuring that social factors are addressed, and that equal access to services is available to all regardless of circumstances or ability to articulate or understand health issues" (NHS Health Scotland, 2013: 5; NHS GGC, [2015a]: 25).

The potential impact of such barriers on the experience of BME patients is also noted in the document (NHS GGC, [2015a]: 26). It is significant that NHS GGC recognised how significant language needs are in ensuring equal access to healthcare: "[k]nowledge of the healthcare

system in Scotland is a prerequisite for accessing appropriate care” (NHS GGC, [2015a]: 22) and has committed to actions in order to mitigate such barriers.

With regard to language-related issues, the *Monitoring Report 2018 - 2019* (NHS GGC, [2019m]) document indirectly mentioned linguistic diversity in the section titled “Patient engagement” (NHS GGC, [2019m]: 4), in which NHS GGC’s efforts to encourage patient participation are described, including work to increase the usage of the NHS Board’s online feedback system by service users with “protected characteristics” (NHS GGC, [2019m]: 5). The protected characteristics in question are not clarified, but the use of that specific term indicates that the text was referring to the characteristics that are identified in the *Equality Act 2010*: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The *Monitoring Report 2018 - 2019* (NHS GGC, [2019m]) text also stated that NHS GGC’s attempt to promote patient engagement with its online feedback system focused particularly on people from BME communities, and additionally provided details of its progress in this regard. NHS GGC’s Equality and Human Rights Team worked with 135 BME people, who were members of four different language communities, in addition to a range of third sector BME organisations, organising 20 sessions illustrating the online feedback system, at which a total of 90 members of staff from those organisations were in attendance (NHS GGC, [2019m]). The document noted that there had been a “seven fold” increase in the amount of feedback received from BME communities since 2017-18 (NHS GGC, [2019m]: 5), which suggests that NHS GGC’s efforts to increase participation for BME patients has achieved some success. It should be noted, however, that later in the document, more precise figures are stated: in 2018/19, 28 feedback comments were submitted by BME people, in comparison to 4 in 2017-18. While this is certainly an increase, the number of BME participants remained low (NHS GGC, [2019m]: 11). The report stated that 14 people from whom NHS GGC received online feedback in 2018/19 had required interpreting support, although this could have been for either spoken languages or BSL, and this figure is included within the “analysis by protected characteristics” (NHS GGC, [2019m]: 11), despite the fact that, according to the *Equality Act 2010*, language is not identified as a protected characteristic.

The report also addressed NHS GGC’s interpreting provision and its 2018-19 service review, which aimed to increase the consistency of good practice across the Interpreting Service, as

well as ensuring maximum effectiveness and efficiency and that the service has sufficient resources to enable it to fulfil future demand (NHS GGC, [2019m]: 5). In the pursuit of these objectives, training was provided for more than 500 members of NHS GGC staff who work across Acute and Primary Care (NHS GGC, [2019m]: 5). The training addressed a range of topics related to language provision in healthcare settings, including the legal and policy context in which services are delivered, and the use of telephone interpreting for spoken languages (NHS GGC, [2019m]: 5).

The service review, and review of NHS GGC's services more widely, highlighted a number of issues relevant to language provision for speakers of allochthonous languages: difficulties in providing interpreters for certain languages, negative staff attitudes towards BME patients, regardless of whether or not they were engaging in healthcare services in English, and patients missing appointments due to being unable to read English language letters sent to them (NHS GGC, [2019m]: 12). The Staff Interpreting Reference Group, for example, which provides the NHS Board with feedback from the perspective of healthcare staff and practitioners regarding interpreting provision across NHS GGC's services, raised the challenge faced when trying to meet the language needs of patients who speak rarer languages such as Amharic, Vietnamese, Herero and Kurdish Sorani/Badini (NHS GGC, [2019m]: 13). It was noted that the national records system does not allow for the translation of appointment letters into allochthonous languages and that, in an effort to lessen the potential impact this may have, NHS GGC's Equality and Human Rights Team distributes guidance documents on using healthcare services at community events, translations of which are available in more than 20 languages (NHS GGC, [2019m]: 26).

Increased awareness of and therefore access to healthcare, specifically acute services, among newly arrived residents in the region was one of the "Equality Outcomes" addressed in the monitoring report, which summarised measures taken to achieve that objective: the distribution of translated publications among staff and patients through both services and voluntary sector organisations, in addition to partnerships with organisations such as the Red Cross in engagement work with refugees and asylum seekers (NHS GGC, [2019m]: 34). The translated documents included guidelines on interpreting services and patients' rights, and were disseminated widely to staff and to patients, while the provision of information

and resources regarding the workings of NHS services in the sessions with refugees and asylum seekers was reported to be “highly valued” (NHS GGC, [2019m]: 34).

The 2018/19 Interpreting Service review led to several changes in how language provision is delivered: telephone interpreting being used for all appointments that are under 26 minutes⁹⁰ in duration (unless the patient in question is “particularly vulnerable”) and a pilot Arabic telephone interpreting system specifically for NHS GGC (NHS GGC, [2019m]: 15). The report expressed the hope that, due to a recent change in interpreting supplier (which will be addressed in more detail below and was one of the results of the service review) and the targeted recruitment of sessional interpreters for rarer languages, language access will improve (NHS GGC, [2019m]: 13). The report also mentioned that NHS GGC’s Third Sector Reference Group had participated in mental and sexual health training, which had highlighted how patients could be better supported and their experience improved (NHS GGC, [2019m]: 14).

The aforementioned interpreting supplier changes include the re-tendering of provision that formed part of its 2018-19 service review; the *Monitoring Report 2018 – 2019* (NHS GGC, [2019m]) commented that changing the interpreting provider would hopefully facilitate the fulfilment of the review’s objectives for the Interpreting Service. Following this change, a number of measures were taken to ensure that members of staff were well-informed and these were listed in the report, such as the “Core Brief” and e-mails within which the new contact details and hyperlinks were available, in addition to language identification codes and in-depth user guides (NHS GGC, [2019m]: 6). Visual resources were made available, too, such as posters with instructions for how to access interpreting support and telephone interpreting guidelines, which were distributed across services (NHS GGC, [2019m]: 6). A significant amount of effort appears to have been put into raising awareness of interpreting provision and its operational details, to both members of staff and service users.

Among the documents published by NHS GGC in order to support its staff in fulfilling equalities obligations in healthcare settings was *The Equality Act 2010: A Guide for Managers* (NHS GGC, [2014b]). The guide identified the “Support to get it Right – NHS

⁹⁰ It should be noted that this timeframe differs from the one provided on NHS GGC’s website, on which (as will be referenced in section 4.3.2.3) staff are informed that they should “use telephone interpreting for all appointments under 41 minutes” (NHS GGC, 2019f).

Greater Glasgow & Clyde's 10 Goals", among which was "Goal 4: Removes Obstacles to Services and Health Information Caused by Inequality", which raises accessibility questions related to language barriers, including the provision of translated texts and interpreting support (NHS GGC, [2014b]: [12]). The document did not include a great deal of material that was relevant to language needs, although there were a few references to language-related issues; for example, in the section of the document focused on identifying "Areas of Risk" that may have required review in terms of fulfilling equalities obligations, interpreting provision was acknowledged as an example of a service "with High Demand and Throughput Pressures", therefore increasing risks (NHS GGC, [2014b]: [9]). The publication stated that in the case of such services, which experience high levels of demand and resource pressures, "there may be an increased risk that required elements of care, central to a person's protected characteristic, are overlooked" and made to reference to staff allowing family members to interpret for patients as an example of how care and support may be hindered by resource constraints and time pressures (NHS GGC, [2014b]: [9]).

Such practices could, the document argued, open NHS GGC to legal challenges because it could result in misinformation and "poor health outcomes" for patients (NHS GGC, [2014b]: [9]). Furthermore, it emphasised that services in which there are consistently high 'Did Not Attend' (DNA) rates within groups that share a characteristic that is protected under the *Equality Act 2010* "may be indicative of issues with legislative compliance and therefore risk"; the document noted that, if appointment notifications were distributed only by letter, in "small print English", this may represent indirect discrimination "against specific patient cohorts" (NHS GGC, [2014b]: [10]). These references to legislative compliance indicate the significance attributed to language provision and the perception that it falls under legislative obligations to which the NHS Board is subject and which were discussed in Chapter Three, with possible legal consequences if such obligations are not fulfilled or if service access is hindered by language barriers.

In 2012, NHS GGC's *Interpreting Policy* (NHS GGC, 2012b) was approved, set to replace the previous incarnation that same year, and was subsequently reviewed in 2015 – this latter version is noted to "(still [be] current 23 May 2019)" (NHS GGC, 2015b: 1). The reviewed document explicitly recognised the importance of providing communication support to assist both patients and staff and referenced the legal obligation to do so that was

established by the *Equality Act 2010*, which “places a legal duty on public authorities to provide barrier free access to those with Protected Characteristics, this includes race” (NHS GGC, 2015b: 4). This was an implicit inclusion of language needs within equalities obligations related to race and disability under the *Equality Act 2010*, which reinforces the relevance of language under that legislation, despite the fact it does not explicitly include language as a protected characteristic. The policy also stated that a “key priority” in the equality framework is NHS GGC’s ([2019q]) *Communication Support and Language Plan*, which identified the necessity of language provision “for all patients who require it” (NHS GGC, 2015b: 4). Again, this was a notable example of the perceived relevance of language support to equalities obligations.

The policy also instructed staff that only professional interpreters should be used during health appointments or interventions; patients’ family members or friends must only provide interpreting support in emergency cases, prior to the arrival of a professional interpreter, and minors must only be asked for factual information, never expected to interpret (NHS GGC, 2015b: 4). This appears to be in line with policies introduced by other bodies (NHS Health Scotland, 2008; NHS Lothian, 2010). The *Interpreting Policy* (NHS GGC, 2015b) additionally included the NHS GGC *Interpreting Service Booking Procedure*, which contained detailed guidance on the practical aspects of language provision. The appendices of the *Interpreting Service Booking Procedure* (NHS GGC, 2015b) offered further guidance related to working with interpreters in healthcare settings, informing staff of what to expect and highlighting ethical issues, as well as providing the *Competency Framework for Interpreting* (NHS Scotland, 2011), which identified the responsibilities of NHS staff, interpreting service providers and public service interpreters respectively.

The same year, a report titled *Improving Access to Services Through Interpreting Provision* (NHS GGC, 2012c) was published concerning research that had been carried out with NHS GGC staff and patients with the aim of understanding the experiences of both groups and of improving language provision across the NHS Board’s services. There was a particular focus on improving provision for BME communities, for whom language barriers were noted to pose a health risk (NHS GGC, 2012c: 2). Two additional challenges were identified as early as the Introduction to the report: a lack of trust in interpreters, with regard to both confidentiality and competence, and a lack of access to interpreters and the ensuing

communication difficulties (NHS GGC, 2012c). As was noted in the report, the research had found that fewer than half of the research participants were aware that patients were entitled to receive support from an interpreter and also that more healthcare services should be informed about the degree of support available, as well as priorities with regard to information requirements (NHS GGC, 2012c: 3). A range of practical challenges were raised, including that service demand exceeded capacity, and staff concerns regarding failure to fulfil legislative obligations (NHS GGC, 2012c). During the research process, the cost-effective nature of utilising telephone interpreting in certain contexts was discussed and deemed to be a possibility (NHS GGC, 2012c: 4). The feedback gathered from NHS GGC patients, it was reported, had identified three principal challenges: the difficulty of navigating first appointments (as they often did not have access to language support at this first point of contact), patients' needs beyond interpreting, for example with understanding the healthcare system, and quality issues with the interpreting provided (NHS GGC, 2012c: 4-6). The report stated, for example, that many of the patients who participated in the interviews had commented that a formal certification "through a qualified body" in interpreting should be required by the NHS Board and that general language proficiency was not sufficient (NHS GGC, 2012c: 5).

The report made a range of recommendations to address the issues raised, which included establishing an in-house interpreting service to improve provision (NHS GGC, 2012c: 6): NHS GGC did indeed launch an in-house service in October 2011 (NHS GGC, 2012a: 12), which was acknowledged in the report's conclusions (NHS GGC, 2012c: 8). Further recommendations were related to improved training and support for staff and interpreters, the development of a quality control process in order to monitor provision, and greater promotion of the provision available in order to raise awareness of the right to language support, for example (NHS GGC, 2012c: 6-8). It was concluded that, despite legislative and policy frameworks being in place, patients still encountered access barriers and the research carried out had identified limited coordination between healthcare staff, interpreting agencies and patients, in addition to issues with the quality of interpreting (NHS GGC, 2012c: 8).

Glasgow City Health and Social Care Partnership⁹¹ (GCHSCP) highlighted the linguistic diversity of its patients in its equalities-related strategy, *Putting equality at the heart of Glasgow City HSCP*, which included details of interpreting demand on its first page: “[a]cross health and social care interpreting services are regularly used for over 80 languages” and identified the most commonly requested languages as Polish, Mandarin, Arabic and Urdu (GCHSCP, [2016]: 1). This is noteworthy because it differs slightly from the information obtained in the research interview about NHS GGC’s Interpreting Service, which included Romanian, with Urdu listed as the fifth most needed language (Stewart, 2017) and may be an example of the aforementioned shifts in service demand. It is worth noting that this plan contains information, in English, about how to request a copy of it in other formats, including translated versions, which is not the case for all policy and strategy documents (GCHSCP, [2015]).

As in other policy documents, such as the aforementioned *Meeting the Requirements of Equality Legislation* (NHS GGC, [2015a]), the relevance of interpreting provision to equalities obligations under the *Equality Act 2010* was recognised in *Putting equality at the heart of Glasgow City HSCP* (GCHSCP, [2016]), despite the lack of direct reference to language in the *Equality Act 2010* itself. Under the first listed “Public Sector Equality Duty” in the plan, “Eliminate unlawful discrimination, harassment victimisation and other conduct prohibited by the Act”, GCHSCP was required to include interpreting and translation policy guidelines in a “common communication plan”, and also to monitor use of and feedback about interpreting and translation provision, in order to remove obstacles to access for “people with relevant protected characteristics” (GCHSCP, [2015]: 9). Such examples within the public sector do suggest that, despite the fact that the *Equality Act 2010* and much of the UK’s domestic legislation overlook language issues (McLeod, 2008), at the local level, many service providers recognise the role of language in other aspects of identity and include language-related issues in equalities policies and strategies. This practice indicates a difference between policy formation at the national UK level and policy development – and, indeed, practice – at the local level, at which service providers are perhaps more aware of

⁹¹ NHS Boards and local authorities “are now required to plan and deliver community health and social care services together” as part of ‘Health and Social Care Integration’ (GCHSCP, [2019]). NHS GGC and GCC collaborate to plan and deliver community health and social care services in Glasgow as the GCHSCP, under the direction of the Glasgow City Integration Joint Board (GCHSCP, [2019]).

complex identities and the intersecting nature of inequalities, as well as the pragmatic realities of access barriers.

4.2.4 Language-related policy and strategy: Scottish local authorities

Local government in Scotland is structured into 32 local authorities, or councils, which in addition to managing local education⁹² services are also responsible for the delivery of a range of other public services, including social services, libraries, local democracy and local infrastructure. As such, local authorities in Scotland intersect with residents' lives through a range of functions that are exercised on a day-to-day basis, including numerous services needed by newly arrived residents (ITS Manager, 2017). Ensuring access to these core services is essential in order to facilitate inclusion and fulfil equalities obligations; it is thus important that multilingual provision is available to those service users who are unable to access local authority services through the medium of English. As demographic changes have occurred in Scotland, linguistic and cultural diversity has increased, and local authorities have developed interpreting and translation services in order to meet the needs of service users who are not sufficiently competent to engage with services in English.

The two local authorities that were selected for this research were the CEC and GCC, and communication with members of staff from the interpreting services connected to both councils provided a useful insight into provision. In both cases, several similar issues were highlighted during the interviews, which will be discussed in this chapter. First, however, it should be noted that some changes to the operational side of multilingual provision for GCC occurred during the course of this research. While the CEC has an established in-house ITS, interpreting and translation requirements for GCC's service users were previously fulfilled by an external provider, Cordia Linguistics, which was part of the larger Cordia Services. As of the 30th September 2018, however, Cordia ceased to trade and service delivery was transferred to GCC, under the management of Glasgow City Health and Social Care Partnership (GCC, 2018a, 2018b).

⁹² Education in Scotland has to a certain extent been devolved to individual school level, and has therefore been discussed in separate sections.

4.2.4.1 The City of Edinburgh Council

The service provides linguistic support for speakers of a wide range of languages and the ITS does maintain a record of the languages required by its service users. Provision is shaped by user demand; the languages supported by the ITS are determined by interpreting and translation requests over the years, according to “the profile and the usage of council and health services⁹³ of the communities in this area” (Ng, 2013; McKelvey, 2013). Information about language demand is the primary source of data that informs service development and delivery, since other demographic data are maintained by the relevant individual CEC department, such as the housing department, and is not accessible to the ITS due to Data Protection regulations (ITS Manager, 2017). The status of a language, or the socio-political power of its speaker community, has little influence on local authority language provision, because the availability of language support is largely motivated by the practical needs of service users (McKelvey, 2013). It should be noted, however, that the extent to which different language communities are aware of or request the available language support is variable (McKelvey, 2013).

When demographic changes result in demand for interpreting and translation provision, as discussed in section 4.1.1, this places a responsibility on the CEC to ensure “equal access to all the services, because that’s [...] the main obligation the Council would be looking to meet” through language provision, so that allochthonous language speakers “can effectively deal with the Council just like any other citizen” (ITS Manager, 2017). These quotes, drawn from the research interview, illustrate the perceived significance of providing allochthonous language support to the CEC’s equalities obligations and additionally suggest the relevance of anti-discrimination requirements through the reference to “any other citizen” who does not face language barriers when accessing CEC services (ITS Manager, 2017). The *Equality Act 2010* was reportedly considered the legislation most relevant to provision, in addition to education legislation, and the ITS Manager (2017) also highlighted the CEC’s own policies, which will be discussed in this section, and principle concerning “equal access for all its

⁹³ At that time, interpreting and translation for NHS Lothian was delivered by the CEC’s in-house service.

citizens to all its services”. This principle seems to be a guiding standard and was highlighted repeatedly in this research interview.

The CEC and its services have also produced several practice guidance documents, such as the *How to Work with Interpreters* guidelines (CEC, 2003), which outlined the procedural approach to interpreting and translation provision. Although this document was published a number of years ago and is no longer entirely accurate (for example, as previously mentioned in section 4.2.3.2, NHS Lothian has since launched an in-house interpreting service (Jaouen, 2018)), it is still worth noting that the local authority’s ITS had produced a practical guidance document that highlighted good practice when working with service users who require language support. The guidelines appear to be a useful resource for members of staff because the document provided significant detail into the processes of identifying language needs, arranging the necessary support, interacting with interpreters, the nature of the appointment itself and feedback opportunities following the appointment (CEC, 2003). Additionally, important information relating to, for instance, cultural concerns related to cultural norms and the gender of interpreters, as well as ethical issues that may arise due to the nature of the medical intervention in question, are addressed and the necessity of ensuring appropriate interpreting support in such cases is highlighted (CEC, 2003: [1]). The inclusion of such guidance is notable as it suggests an awareness of and sensitivity towards patients’ diverse needs and circumstances and a focus on person-centred care in order to uphold patients’ rights.

A report published by the CEC (2004), in response to concerns regarding resources, addressed the CEC’s ITS and recognised the service’s role in ensuring that the local authority fulfils its equalities requirements: “[t]he service is crucial to the ability of the Council and NHS Lothian to fulfil statutory obligations under race and disability equality legislation” (CEC, 2004: 1). This is notable because it illustrates a perceived obligation to provide language support under such legislation. The report noted the yearly increase in service demand, particularly with regard to BSL interpreting, as well as the lack of increase in human resources to meet that demand, suggested a range of operational improvements that could facilitate provision (such as staff training and the use of video conferencing and ICT resources) and recommended a wider service review that would consider the collaboration with NHS Lothian (CEC, 2004: 1). The report also proposed the development of

a staff register to record the allochthonous language skills of those members of staff who volunteered to assist in providing language support and could potentially allow for “a fast and flexible response when obtaining the services of an appropriate sessional worker is not possible” (CEC, 2004: 6). The recommendation did include an acknowledgement that the “cost and implications” of implementing this recommendation would need to be considered (CEC, 2004: 6), which perhaps indicates awareness of the aforementioned⁹⁴ possible limitations and risks of staff members interpreting for service users, except in specific and necessary situations (NHS Health Scotland, 2008).

The CEC’s ([2011b]: 8) *Action Plan 2012-2017* referenced language in relation to its aim to ensure accessibility and inclusion: “[t]he Council is attentive to people with communication support needs in its consultation and engagement and delivers information in an accessible form which helps to remove physical, language, and psychological barriers to engagement”. It was noted that monitoring translation service demand by language would assist in evaluating the CEC’s success in meeting this objective. Furthermore, one of the actions identified in line with its Equality and Rights Outcome 17 (“There is an improved quality of life for people across all protected characteristics through reduction in social isolation” (CEC, [2011b]: 14-15)) was the continued and even increased availability of library books in allochthonous languages, in order to facilitate wider access (CEC, [2011b]: 16). Indeed, the document stated that residents of the city who do not speak English as their L1 were among the groups who experienced social isolation and the challenges that it leads to, since it “is a key factor affecting health and the quality of peoples’ lives” (CEC, [2011b]: 13). This is a notable example of a public body recognising the exclusion that may be experienced by allochthonous language speakers.

The ITS was referenced in the CEC’s *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]: 9), in which the CEC aimed to improve access to and service user satisfaction with a range of services including the ITS. The measures to which the CEC committed in line with this aim included improving the ITS, ensuring the more consistent usage of the “Happy to Translate” service on the resources available to the public, expanding the availability of its documents in plain English and “easy read” and ensuring the delivery of ITS contracts (CEC,

⁹⁴ Please see section 4.1.2.1 NHS Scotland for details.

[2016c]: 9). The relevant webpage describes the framework as “[h]ow we intend to meet our legal duties under the Equality Act 2010 and the Public Sector Equality Duty over the next five years” (CEC, [2016a]),⁹⁵ highlighting the significant role the *Equality Act 2010* plays in shaping local service delivery. The *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]) also referenced several other pieces of legislation, such as the *Human Rights Act 1998*, and international law, such as the ECHR (CoE, 1950), which provides an insight into the legal instruments that are deemed most relevant to equalities obligations and service users’ rights by the local authority. The *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]) referred to “people who share protected characteristics” with regard to “Council customer services”, including the ITS (CEC, [2016c]: 9), which again suggests that language is recognised at the local level in relation to the characteristics protected under the *Equality Act 2010*. The framework identified improving access to and positive customer experiences of services such as the ITS as one example of “What success looks like” when trying to achieve “Outcome 1 – Improved accessibility of council services, housing, and buildings”, referencing both interpreting and translation provision in its actions to achieve that outcome (CEC, [2016c]: 8, 9). Another measure included in the framework was the increased use of visual materials (“photo-symbols”) across the CEC’s services and sites, such as “schools, libraries, leisure, and community centres”, which, although not explicitly connected to allochthonous language speakers, relates to facilitating access and awareness through the use of communication tools other than those in written English (CEC, [2016c]: 8).

The *Equality, Diversity and Rights Framework Progress Report* (CEC, 2019d) included little mention of language-related issues, although it did restate the relevant aims that were originally identified in the *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]) and reference increased multilingual resources in libraries, with specific mention of “picture communication symbols” that are available through Boardmaker software (CEC, 2019d: 14). This software was provided to six libraries in Edinburgh, including Central library, with regular drop-in sessions offering guidance on the software, which is available to service

⁹⁵ This description (“[h]ow we intend to meet our legal duties under the Equality Act 2010 and the Public Sector Equality Duty over the next five years”) was also used in reference to both the CEC’s *Action Plan 2012-2017* (CEC, [2011b]) and *Framework to Advance Equality and Rights* (CEC, 2012a), on the webpages from which the documents in question are available for download (CEC, [2012b], [2012c]).

users during library open hours if they want to make their own visual aids for home use; it is also used in all schools across the city (CEC, 2019d: 14). The report identified service users who may find this resource useful and included “people who have English as an additional language” in that list (CEC, 2019d: 14). It additionally highlighted progress made regarding engagement with “migrant community groups” through its funding of the Equality and Rights Network (EaRN) and its support of Syrian refugees in Edinburgh (CEC, 2019d: 5, 16). While this content was not explicitly connected to language, the CEC’s role in supporting Syrian refugees in the city engages language needs and has implications for ITS provision (ITS Manager, 2017).

The CEC’s *Framework to Advance Equality and Rights* (CEC, 2012a) did not appear to address language-related issues, although a subsequent *Progress Report* (CEC, 2015) contained a few references to such issues. As part of its effort to be an “efficient and effective organisation”, the CEC endeavours to ensure that it “is attentive to people with communication support needs in its consultation and engagement and delivers information in an accessible form which helps to remove physical, language, and psychological barriers to engagement” and when summarising the local authority’s progress towards achieving this goal, the report highlighted the support provided by the ITS to service users who speak languages other than English (CEC, 2015: [22]). The role of the Communication Service in providing all communications in the appropriate format for the audience in question, including information requested in allochthonous languages, was also noted (CEC, 2015: [23]). The *Progress Report* (CEC, 2017a) also acknowledged the role of the ITS in meeting the aforementioned Equality and Rights Outcome 5 and noted that a more recent procurement process had resulted in a range of new ITS providers being engaged, who would work alongside the CEC’s sessional interpreters to deliver language support.

In 2018, papers from a meeting of the Edinburgh Integration Joint Board (IJB)⁹⁶ included the *Mainstreaming the Equality Duty and Equality Outcomes Progress Report* (CEC, 2018a), which reported the IJB’s progress with regard to its obligations under the *Equality Act 2010*. The report reaffirmed the language-related commitments made by the IJB’s *Communications and Engagement Strategy* (CEC, 2016b: [7-9]), including the provision of

⁹⁶ Please see footnote 91 for details: this is the equivalent in Edinburgh.

translations, in line with the strategy's "[c]lear, concise and inclusive" principle (CEC, 2016b: [7]), by the ITS. Further stated commitments included communication with service users to verify that language needs are being met, in accordance with the principle that services should be "[t]ested" (CEC, 2016b: [8]), and the use of the "Happy to Translate" details on all of the local authority's leaflets, which will, it was noted, all be available in languages other than English (CEC, 2018a: 9).

4.2.4.2 Glasgow City Council

The interpreting service meeting the needs of GCC's service users used to be situated within its Social Work department, before being transferred to Cordia Linguistics in 2011 (Operations Manager, 2019). In 2018, the services were brought in-house, into the Linguistics Service, again located within the GCC's Social Work department, with which the service works most closely, under the umbrella of the GCHSCP (Operations Manager, 2019). A semi-structured interview was arranged with the Operations Manager employed by GCC in order to discuss this recent transition and the nature of provision. It was reported that the shift to an in-house service has not resulted in noticeable changes, either in terms of operational factors or service delivery itself (Operations Manager, 2019), but it was nevertheless important to discuss such a notable transition in this thesis – particularly in light of the establishment of in-house interpreting and translation services by other public bodies such as NHS GGC and NHS Lothian.

The *Equality Outcomes for 2013–2017* (GCC, 2013) document, which was published by GCC in line with the requirements of the *Equality Act 2010*, contained little in relation to language-related issues, other than referencing translation services with regard to its aim to ensure that "[e]mployees feel they are able to respond confidently and appropriately to all colleagues and citizens" (GCC, 2013: 16). The impact that communication barriers may have on equal access was recognised, as was the significance of translation services to the removal of those barriers, and GCC therefore committed to ensuring that its employees were aware of language provision, specifically "translation services" (GCC, 2013: 16).

Monitoring processes included the implementation of the *Principles of Inclusive Communication* (Scottish Government, 2011a) and the recording of data regarding the use

of translation services (GCC, 2013: 16). The *Equality Progress Report 2015* (GCC, 2015), however, addressed language-related issues fairly extensively, as did the most recent report (GCC, 2019), which was published as part of the monitoring process for the second set of equality outcomes that had been established in the *Equality Outcomes 2017 to 2021* (GCC, 2017) document.

The 2015 monitoring report additionally included details of efforts to develop GCC's equality and diversity training and the decision to consider adding components related to those issues to the staff e-learning and training programmes in order to support its members of staff in working with service users with "additional needs and requirements" (GCC, 2015: 46). The results of a survey about employee attitudes towards poverty, equality and children's rights were also noted in the report, including the fact that 28% of participants responded that they lacked confidence when supporting service users who spoke a language other than English (GCC, 2015: 46). In response to such issues and in line with the aim to build staff confidence in meeting the needs of service users, the 2015 report committed to increasing the uptake of the equality and diversity e-learning courses that had been added to the programme in 2014 (GCC, 2015). A significant amount of the language-related content found in the 2015 report was also included in the 2019 report, and the latter highlighted provision for "additional languages" (GCC, 2019: 12). Demand for these languages had risen and support had therefore been provided since 2014/15 in Amharic, Bulgarian, Hungarian, Nepalese, Marathi, Saho, Tigre and Vietnamese (GCC, 2019: 12). A potential link between the increased demand for Arabic, Amharic and the Tigrinya languages and newly arrived people from Syria was drawn (GCC, 2019).

Furthermore, the *Equality Progress Report 2015* (GCC, 2015: 47) addressed a specifically language-related equality action: "Ensure employees are aware of the procedure to access translation services, which promote equal access to services by removing communication barriers". The measures adopted in line with that objective and monitored as part of the reporting process included maintaining the annual Happy to Translate accreditation and monitoring access to Cordia Linguistics⁹⁷ services (GCC, 2015: 47). Service demand in 2012/13 and 2013/14 was reported as 14,482 and 13,901 interpreting requests respectively,

⁹⁷ At that time, interpreting and translation for GCC was delivered by the Cordia Linguistics.

while new languages were supported by the service: Amharic, Bulgarian, Hungarian, Nepalese, Marathi, Saho, Tigre and Vietnamese (GCC, 2015: 47).

The *Principles of Inclusive Communication* (Scottish Government, 2011a) were referenced in the *Equality Progress Report 2015* (GCC, 2015) as part of the local authority's aim to ensure that more of its communication practices satisfied those inclusivity principles (Scottish Government, 2011a). The report's evaluation of progress with respect to this objective concluded that, as of 2013/14, GCC had not approved guidelines or "coordinated efforts to progress Inclusive Communication" and noted that the Equality Working Group was, at the time of the report's publication, developing plans to do so (GCC, 2015: 49).

The *Equality Outcomes 2017 to 2021* (GCC, 2017: 4) recognised four objectives that "underpin [GCC's] equality work" and that the local authority aimed to fulfil: "Improve Economic Outcomes for People with Protected Characteristics; Increase People's Knowledge about Equality and Fairness; Improve Access to Council Family Services by People with Protected Characteristics; Promote and Support Respect for Equality and Diversity". Each of these objectives could arguably be relevant to language provision. With regard to the first equality outcome listed above, as previously mentioned, although language is not considered to be a protected characteristic under the *Equality Act 2010*, it may be indirectly protected under the 'race' category and has been explicitly connected to access barriers for BME service users in healthcare settings, for example (NHS Health Scotland, 2009a; NHS GGC, [2015a]). It has been established in the course of this research that language barriers have been recognised by service providers as representing an obstacle to equal access to public services (NHS Lothian, 2011a; Scottish Government, 2012a, 2015; GCC, 2013, 2015; ITS Manager, 2017; NHS 24, 2019c; NHS GGC, [2015a], [2017], 2019d, 2019e, [2019q]), which engages principles of equality and fairness and is relevant to issues of diversity and inclusion.

The explicitly language-related aspects of the *Equality Outcomes 2017 to 2021* (GCC, 2017) were fairly limited, however, and focused mostly on education. For example, the document reported that progress had been made with regard to the aim to "Improve Access to Council Family Services by People with Protected Characteristics" (GCC, 2017, *Equality Outcomes 2017 to 2021*: 10), because educational attainment had improved for pupils "for whom

English is not a first language” due to the “Improvement Challenge”.⁹⁸ Further issues addressed in the *Equality Outcomes 2017 to 2021* (GCC, 2017) report, while not explicitly related to language needs or language provision, remain likely to be of relevance to service users who require language support in order to engage with GCC’s services. The actions and measures to which the local authority committed in order to ensure that the “Council Family has visibly promoted and delivered events that celebrate cultural diversity in Glasgow” – which was part of its stated responsibility “General Duty: Fostering good relations” – for example are relevant in the sense that they focused on celebrating cultural diversity and facilitating inclusion, both within GCC services and in the city itself (GCC, 2017, *Equality Outcomes 2017 to 2021*: 29). In addition to a range of events promoting cultural diversity, such measures included the completion of a review into the local authority’s communications related to raising awareness of equality and diversity and continued support for organisations that support asylum seekers and refugees in the Glasgow area (GCC, 2017, *Equality Outcomes 2017 to 2021*: 29).

Further reference was made to developing communication practices in line with the *Principles of Inclusive Communication* (Scottish Government, 2011a), which as previously mentioned had not yet been implemented as of the publication of the *Equality Progress Report 2015* (GCC, 2015: 49). In order to ensure Equality Outcome 8, “Service users with protected characteristics are provided with targeted, improved and more accessible information about the services provided by the Council Family”, the *Equality Outcomes 2017 to 2021* committed GCC to the “[d]evelopment and implementation of a systematic policy for communication that sets out the Council’s approach to meeting the principles of Inclusive Communication” (GCC, 2017: 23). The *Equality Outcomes 2017 to 2021* (GCC, 2017: 3, 4-5, 10, 11, 12, 21, 24) additionally included specific reference to access barriers in relation to people with protected characteristics which, while not connected explicitly to language needs, engages issues around communication practices and how the local authority informs people about its services. This likely to be relevant to those who need to access such services through the medium of an allochthonous language. The report (GCC, 2017, *Equality Outcomes 2017 to 2021*: 21) highlighted research findings indicating that GCC

⁹⁸ Through the “Improvement Challenge (Literacy and Numeracy)”, 119 primary schools in Glasgow that had higher proportions of pupils from socioeconomically deprived areas were offered support to improve attainment in literacy and numeracy (GCC, 2017: 22).

could do more to remove barriers that hinder service access for those with protected characteristics and that it would endeavour to improve provision, and to adopt the *Principles of Inclusive Communication* (Scottish Government, 2011a). In general, although language diversity and language needs are not explicitly connected to these particular measures within the document, linguistic diversity is an element of cultural diversity and as such efforts to promote the latter do have bearing on approaches to the former. Additionally, the implementation of inclusive communication practices is likely to engage a range of communication needs, including language barriers and interpreting and translation requirements, as addressed in the introduction to section 4.1 during the evaluation of the Scottish Government's (2011a) *Principles of Inclusive Communication*.

The *Equality Progress Report 2019* (GCC, 2019a: 9) noted that during consultation and research processes, GCC ensures that alternative document formats, including translations into languages other than English, are available "if needed". In the section of the document titled "Access to Services" (GCC, 2019a: 11), the text reported that "The Council has taken a number of steps to address barriers to communication in participation and accessing services" and, among other details, included information about language provision within its services. As previously mentioned, the details relating to Cordia Linguistics are no longer accurate. The report also affirmed that the languages for which provision was introduced in 2014/15 (Amharic, Bulgarian, Hungarian, Nepalese, Marathi, Saho, Tigre and Vietnamese) were receiving ongoing support, "reflecting the increased diversity of communication in the city" (GCC, 2019a: 12). With regard to ESOL provision, the report contained a brief comment on the continued use of the central register when recruiting for ESOL classes and the fact that this facilitated the monitoring of language needs in Glasgow and provided a single point of access, in addition to noting that the CareFirst management information system used by the local authority's Social Work department collected data about service users, including optional information on their L1 (GCC, 2019a: 13).

GCC's 2019 report included references both to measures already implemented and those to be adopted in the future by Glasgow Life,⁹⁹ several of which were related to multilingual provision (GCC, 2019a: 53, 56). For instance, 2,000 editions of the *Glasgow: Your Essential*

⁹⁹ Glasgow Life is a charity that provides cultural, educational and sporting activities on behalf of the local authority (Glasgow Life, 2018a, "About Us").

Guide resource produced by Glasgow Life were, in 2017/18, printed in each of the six allochthonous languages that were most commonly spoken in Glasgow: Punjabi, Urdu, Arabic, Polish, Mandarin and Romanian (GCC, 2019a: 53), while, in 2018/19, Glasgow Museums published a brochure (Glasgow Life, 2018b, “Away for the day”) focused on family activities in those same six languages, in addition to English (GCC, 2019a: 53). The report also noted the aim to publish the aforementioned brochures in those six allochthonous languages on the Glasgow Life website, which does not yet appear to have been done (GCC, 2019a).

Glasgow Life were also reported to have introduced a range of technological aids to facilitate access to local authority services, including self-service kiosks that had been added to 14 of Glasgow’s libraries since 2017 and which offered multilingual provision in addition to visual instructions “in a graphic format allowing customers to follow them easily regardless of their knowledge of English or their literacy levels” (GCC, 2019a: 56). Glasgow Life’s own *Equality, Diversity and Inclusion Policy* (Glasgow Life, 2018c) does not appear to address language-related issues. It should, however, be noted that the Glasgow Life website (Glasgow Life, 2018d) informs users that the organisation’s Equality Policy (Glasgow Life, 2018c) is under review, so perhaps the newer version of the policy will include such issues.

4.2.5 Language-related policy and strategy: the Scottish education system

4.2.5.1 The Scottish education system

Education services in Scotland are managed by local authorities, although schools themselves retain a significant degree of autonomy. Education providers are of course subject to national education legislation, such as the *ASL Act*, the *Gaelic Language (Scotland) Act 2005*, the *BSL Act* and the *Education (Scotland) Act 2016*, and therefore to the legal obligations they impose, but with regard to the management of resources, for example, schools themselves play a significant role (Scottish Government, 2017b; Audit Scotland, 2018). As discussed in Chapter Three, as a result of the *ASL Act*, EAL needs are considered under the umbrella of additional support needs in Scotland, and there is a legislative obligation to meet the needs of EAL pupils in Scottish schools.

EAL services form part of local authority provision, an element of additional support for learning, and provide in-class support to EAL pupils in addition to working within school communities to promote positive attitudes towards multilingualism and linguistic diversity. Language support in the classroom is delivered by Bilingual Support Workers, while the EAL services more widely engage with issues related to multilingualism and education and deliver training and capacity-building. As noted in Chapter Three, provision for EAL pupils is to a certain extent specifically required by Scottish law under the *ASL Act*, due to the inclusion of EAL in the *ASL Code of Practice* guidance (Scottish Government, 2017c), although the *ASL Act* itself does not refer to the issue. Nevertheless, there are no other national legal obligations established regarding EAL provision, and services tend to operate according to local contexts and language needs.

In addition to the in-class language support provided to EAL pupils, the services work with schools to foster inclusive approaches towards multilingualism in school communities. During the interviews with EAL staff, this was an aspect of their work that was highlighted, and Antonella Sorace (2017), the Director of Bilingualism Matters,¹⁰⁰ also discussed the value of encouraging schools to promote their pupils' L1s and intergenerational transmission within families. In the context of the UK, in which a culture of monolingualism remains relatively strong (Edwards, 2001; McLeod, 2008), and more specifically in Scotland, where the "prevailing monolingual mentality" has been characterised as "both a fallacy and short sighted" (Hancock, 2014a: 174), negative perceptions of allochthonous languages and their speakers have implications for the intergenerational transmission of the former and inclusion for the latter. The monolingual culture still present in Scotland restricts pupils culturally, educationally and economically (Hancock, 2014a) and also influences strategies and procedures within the education system, such as assessment processes for pupils who speak languages other than English, which have been described as examples of symbolic racism because, when carried out in English rather than in the pupil's L1, they are often normative and based on native English-speaking peers (Hancock, 2017).

¹⁰⁰ Bilingualism Matters is a centre based at the University of Edinburgh, with partner branches in Europe and the US, which carries out research into bilingualism and language learning and disseminates findings in order to educate the community.

As mentioned in Chapter Three, negative perceptions of multilingualism and of minoritised languages can threaten language maintenance (Leeman, 2015) if internalised by their speakers themselves. Narratives that frame allochthonous languages as socioeconomic and cultural disadvantages are perhaps particularly powerful when they are connected to discourse relating to immigration and integration, as the message that “full integration comes through the abandonment of [an allochthonous language speaker’s] native language” (Sorace, 2013) can discourage allochthonous language maintenance. Hancock and Hancock (2018: 6) noted that the “strong incentive” to learn the “language of power” – English, in this case – and the lack of allochthonous language provision “results in language loss”. Low socioeconomic value tends to be attributed to allochthonous languages (Gundara and Sharma, 2010), with associations often inferred between allochthonous language usage and poverty, poor educational attainment, sociocultural problems and a lack of integration (Akoğlu and Yağmur, 2016). Such problematisation of allochthonous languages can threaten intergenerational transmission, and attitudes within the education system towards allochthonous languages and multilingualism can also have a significant impact on the perceived status of those languages both within the school community and within speaker communities. In many countries during the 20th century, bilingualism among school pupils was largely considered to be a burden, “a source of academic retardation and cognitive confusion” that educators attempted to remove (Cummins, 2000: 173).

As the benefits of bilingualism are increasingly recognised (Hancock and Hancock, 2018), discourse concerning multilingualism and linguistic diversity within Scottish education services does not reflect that relatively common historical perception, but misconceptions remain that problematise allochthonous language maintenance. Educational policies and practices concerning linguistic diversity and EAL pupils should be considered in light of the “wider socio-political conditions of which they are a part” (Costley, 2014: 276). Creese (2010: 47) highlighted that even when diversity within school communities is celebrated, discursively or in practice, it is nevertheless often considered to be a hindrance: “[i]n our schools, diversity is at once celebrated while also qualified in practice as difficult and problematic”. Such messages, of course, can be internalised by both native English-speaking and EAL pupils, which can influence perceptions of allochthonous languages and linguistic diversity, more widely, and of EAL pupils and teachers in particular:

Students, like teachers, are aware of such hierarchies. Their challenge to EAL teachers as not real teachers or “their” teachers show such awareness. Despite their teachers’ attempts at implementing inclusion, social justice and equality, students are able to read other messages behind the inclusive rhetoric (Creese, 2010: 48).

Of course, this also poses a threat to language maintenance among allochthonous language speaking families. Public discourse that prioritises an English-only approach in terms of language teaching, framing allochthonous L1s as an educational disadvantage, and education practices that follow a deficit model,¹⁰¹ for example, may encourage families to avoid intergenerational transmission due to fear that learning the allochthonous language in question at home will hinder their children’s educational attainment. The previously mentioned lack of provision for numerically and culturally significant allochthonous languages in the Scottish education system risks reinforcing such damaging beliefs about allochthonous language maintenance, since this exclusion from secondary school qualifications suggests a low status for those languages. Lack of provision at the primary level is also problematic and risks hindering the intergenerational transmission of allochthonous languages. Given the monolingual culture still present in the UK (Edwards, 2001; McLeod, 2008), which is reflected in the UK policy aim of linguistic conformity for allochthonous language speakers (Wright, 2016: 246), the potential implications of such choices in the public sector should not be overlooked, and the impact they may have on allochthonous language speaking families, and on the likelihood of the intergenerational transmission of allochthonous languages, should be considered.

Such reports are examples of how attitudes in the socio-political sphere towards linguistic diversity and allochthonous language usage can influence both service delivery and language choices in the private sphere, potentially threatening the intergenerational transmission of allochthonous languages. Given that the “normal pattern” for allochthonous language speakers is that by the third generation following arrival in the host state, full linguistic assimilation has occurred (Dunbar, 2007: 106) and allochthonous languages are no longer spoken, their intergenerational transmission, which is “one of the major mechanisms of cultural continuity” (Nauck, 2001: 159), is already at risk. Public policy decisions that reinforce a linguistic hierarchy in which many allochthonous languages are considered to be

¹⁰¹ The framing of pupil’s bilingualism or allochthonous L1 as an educational disadvantage rather than as a resource (Bartlett, 2007).

of little value further discourage allochthonous language maintenance, and education has a role to play in this. Wei (2006) characterised the establishment and growth of complementary schools in the UK as resulting from a system of linguistic apartheid, “in tandem with prevailing monolingual state language policies” (Hancock, 2012: 2) that Hancock and Hancock (2018) characterised as assimilationist. Aside from the impact on allochthonous language skills in the UK, or the lack thereof, both within allochthonous language communities and within the majority, English-speaking population, such omission from the education system additionally threatens inclusion for allochthonous language speakers.

Furthermore, socio-political attitudes that disparage or dismiss the value of allochthonous languages in favour of the use of English can have implications for English language skills within allochthonous language communities. When parents who are not proficient in the dominant state language (English, in the case of the UK) are nevertheless encouraged to use it at home, rather than their own minoritised language, this can lead to instances of “impoverished input” (Sorace, 2013) for their children in that dominant language, to the use of “a restricted code” (Akoğlu and Yağmur, 2016) within the home. This can in fact hinder dominant language acquisition, rather than aid it, when compared to input in the language by native speakers, in addition to obstructing parent-child communication and the intergenerational transmission of allochthonous languages (Akoğlu and Yağmur, 2016; Place and Hoff, 2011). In terms of equality considerations and legislation, the potential impact on English language competence of a failure to provide allochthonous language teaching is a significant issue that has implications for socioeconomic inclusion and for educational outcomes.

4.2.5.2 Education services in Edinburgh

The first strategy document to be discussed will be the *CEC Schools Strategy for Mandarin and Chinese Studies* (CEC, [2012]), which outlined the then-current context with regard to the teaching of Mandarin and Chinese Studies in Edinburgh and subsequently communicated the local authority’s strategy for expanding this provision. The strategy was aimed at learners in general, rather than specifically at pupils or adult learners with

Mandarin as their L1, and included measures pertaining to cultural exchanges and language preparation for national examinations. It was noted that, at the time, six secondary schools offered taster courses in Mandarin, in addition to SQA courses at a variety of levels – with two pupils studying for Highers in Mandarin – while 18 primary schools had organised events to celebrate Chinese culture and Mandarin (CEC, [2012]). The development of training and Continuous Professional Development (CPD) courses for teachers was noted, while the necessity of such programmes to the sustainability of Mandarin teaching in Edinburgh was acknowledged, as was the benefit of good practice sharing with other local authorities in Scotland (CEC, [2012]). The “City of Edinburgh China Plan” included such measures as the employment of a permanent Mandarin teacher to work across Edinburgh’s schools, the appointment of Chinese Language Assistants (CLAs) to support learning, the continued sharing of good practice and availability of CPD options for the city’s teachers and developing partnerships with, for example, schools in China (CEC, [2012]: 2).

There was, however, consideration was also given to expanding access to opportunities to learn Mandarin, to schools where there was, at the time, no Mandarin provision and also among adult learners, and additionally through the Edinburgh Confucius Classroom Hub, which was subject to an application process at the time of the strategy’s publication (CEC, [2012]). If that application were successful, the strategy document noted, the Confucius Classroom Hub would offer a space for resource and practice sharing, study and examination revision classes and “a Chinese language and culture resource and showcase, accessible to all City of Edinburgh schools, to adult learners and to community groups”, with a publicity campaign that would aim to raise awareness and encourage engagement from the wider community (CEC, [2012]: 2). Both the existing provision for Mandarin at the time and the CEC’s aims for future expansion of that provision were significant and, in 2012, Leith Academy became the Confucius Classroom Hub in Edinburgh (Confucius Institute for Scotland, [2014]; Scotland China Education Network (SCEN), 2019), which suggests that some of the aims set out in the *Schools Strategy for Mandarin and Chinese Studies* (CEC, [2012]) were achieved.

The *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]) noted that ensuring access to and participation in education for pupils with additional support needs would assist in improving the accessibility of CEC services. As discussed in section 3.5.2, language

needs were included in the *ASL Code of Practice* (Scottish Government, 2017c) that was published to provide guidance on the *ASL Act*, and therefore the aforementioned objective was arguably relevant to EAL pupils, despite the fact that EAL provision was not explicitly referred to. The *Equality, Diversity, and Rights Framework 2017-21* (CEC, [2016c]) additionally mentioned the importance of addressing access to the school curriculum and accessible communication with parents and carers in the Accessibility Strategy that it committed to developing, which also suggested the relevance of language-related communication barriers, among others. A hyperlink was also provided to *In on the Act* (CEC, 2019e), which will be discussed in more detail below and which addresses the implementation of the *ASL Act* in Edinburgh. This is of course relevant to education and, given the aforementioned connection between Scottish Government guidance on additional support needs in education and EAL provision, arguably also relates to pupils who speak allochthonous languages.

The CEC's *Progress Report* (CEC, 2015) included information about education and children's services that was relevant to language issues. In relation to Equality and Rights Outcome 11, "[t]here are an improved percentage of children in Council schools who say their school is good at dealing with bullying", the document noted progress with regard to resources that had been developed for schools concerning cultural diversity, in addition to guidance on the use of interpreters and translators in social work settings (CEC, 2015: 26). The impact that the fostering of positive attitudes towards cultural and linguistic diversity within school communities and the provision of education programmes related to such diversity can be significant. As was discussed in section 4.2.5.1, negative perceptions of allochthonous languages and the propagation of misconceptions surrounding bilingualism may be internalised by allochthonous language speakers in education settings (Walker, 2017; Depute Head Teacher, 2017) and risk stigmatising and discouraging the intergenerational transmission of allochthonous languages, which among other things, can complicate communication within families (Sorace, 2013; Akoğlu and Yağmur, 2016; Place and Hoff, 2011).

The CEC ([2013]: 28) published a guidance document addressing mental and emotional health in young people. Although language-related issues were not considered in the main body of the text, one of the document's appendices stated that young people from

minoritised and BME groups may experience “isolation, poor peer relationships and bullying” due to experiences such as racism, conflicts between peer pressure and family expectations, and linguistic and cultural differences (CEC, [2013]: Appendix 2). When discussing different pedagogical practices involving subject and EAL teachers, Creese (2010) highlighted the fact that, when diversity is problematised in educational settings, pupils can perceive negative attitudes towards both EAL pupils and teachers, which risks encouraging exclusionary beliefs. The *Supporting Young People* (CEC, [2013]) document recognised the work of the EAL service, however, in supporting pupils from BME communities and the guidance that EAL staff offer; as was explained in the research interviews carried out with members of staff from the EAL services in Edinburgh and Glasgow, part of their role involves working within school communities to foster positive and inclusive approaches to linguistic diversity.

In 2017, the CEC’s Education, Children and Families Committee published its *Additional Support Needs and Special Schools Update 2016-17* (CEC, 2017b), in which it commented on the progress that had been made with regard to the development and trialling of a new model for inclusive EAL support, and recommended future testing and evaluation processes. The report also commented on the “incidental support” offered to EAL pupils by the “systematic” usage of symbols and visual aids in order to facilitate access to the school curriculum for pupils “at an early level of language” as a result of a range of additional support needs, because it allowed EAL pupils to “relate their existing language to visual prompts and English language forms” (CEC, 2017b: 7). The value of inclusive approaches in education was highlighted: such approaches allow pupils’ needs to be met efficiently and effectively, eliminate barriers from within the school curriculum itself and facilitate meaningful participation by pupils with additional support needs, establishing a supportive classroom environment and a “more productive learning environment for the class as a whole” (CEC, 2017b: 8). Celebrating multilingualism, for example, promotes the “common needs of all children in linguistically diverse classrooms” (Creese, 2010: 35). It was also noted, in the aforementioned report on additional support needs in Edinburgh’s schools, that inclusive educational practices raise attainment levels among pupils (CEC, 2017b: 3, 8, 9, 12).

Models in which EAL pupils are largely taught within the classroom have not always been either the conventional approach or the recommended policy. Costley (2014) reflected that the withdrawal¹⁰² strategy aimed to accelerate the English language learning process among EAL pupils while also resolving “the ‘problems’ posed by an increase in EAL learners in classes” (Costley, 2014: 281) by allowing classroom demographics to “return to how they had been before” (Costley, 2014: 281). The implicit construction of EAL pupils as challenging or disruptive to the classroom setting is problematic. Although Costley (2014: 282) noted that “many” schools at the time did not implement withdrawal strategies, several such models (total, partial and non-withdrawal (Costley, 2014)) were adopted in the past. While EAL pupils may still be withdrawn from the classroom if required in order to support them, over time the pedagogical approach has shifted (Costley, 2014). More inclusive approaches, in which EAL pupils have equal access to the curriculum, are considered to be in line with the principles of equal opportunity and anti-racism (Leung and Franson, 2001). Inclusive approaches have been argued to allow access to richer educational experiences and are “viewed as progressive, promoting equal opportunities and recognizing individual differences” (Creese, 2010: 34).

The *Additional Support Needs and Special Schools Update 2016-17* (CEC, 2017b: 9) report discussed the shift to more inclusive practices that occurred in a primary school in Edinburgh, in which there had been a noticeable rise in the number of EAL pupils. Rather than approaching the needs of EAL pupils at the school as an “add-on”, it was decided that a more inclusive pedagogical approach was needed, and that this should be reflected in the school’s ethos (CEC, 2017b: 9). The school found that this raised attainment levels, with a higher percentage of pupils achieving their “expected level”, bringing it closer to the figure for pupils across Edinburgh (CEC, 2017b: 10). It was found to bring benefits to the school community as a whole, increasing confidence and competence among those teaching bilingual pupils and among those pupils themselves (CEC, 2017b). The report concluded that the success of this approach would be trialled and that “cycles of intensive supports [*sic*]” would be provided to schools to assist them in establishing more inclusive practices (CEC, 2017b: 9).

¹⁰² In which pupils who required English language support were withdrawn from the classroom (Wardman, 2012).

The *Promoting children's rights, equalities and inclusion* (CEC, 2019c) report was published to highlight the progress made by the local authority's Communities and Families service to address and counter the effects of discrimination and inequality. In relation to additional support needs in education, the document emphasised the importance of inclusion, noting several key themes, such as inclusive practices and effective, integrated additional support (CEC, 2019c: 4). The report referenced existing EAL provision and equalities training and additionally stated a commitment to considering options for the expansion of the "inclusive improvement-led approach to supporting English Language and Literacy acquisition" among bilingual pupils to all schools in which those language needs are present (CEC, 2019c: 8). The increase in the number of pupils with additional support needs, and the fact that a notable proportion of that number are EAL pupils, was recognised in the *Additional Support Needs and Special Schools Update 2016-17* (CEC, 2017b: 6), which stated that:

[t]he pattern of growth in additional support needs has been apparent across all key areas of need. The biggest area of need is support for English as an Additional Language, where there has been a consistent growth trend. The number of learners requiring support has doubled over a 10-year period.

Despite this increase in linguistic diversity and multilingualism within school communities, it was also acknowledged in *Promoting children's rights, equalities and inclusion* (CEC, 2019c) that, while in 2016/17 four primary schools and one secondary school provided a Personal and Social Education (PSE)¹⁰³ Equalities Programme, taught by EAL and Gypsy Roma Traveller Support Teachers and co-delivered with class teachers when possible, in 2017/18, three different primary schools delivered the programme and in 2018/19, it was not delivered at all. The reason for this is not clear.

The CEC published *In on the Act* (CEC, 2009) in order to support its members of staff in implementing the *ASL Act*. The guidance document noted that there was no "fixed definition" of additional support needs in education and that each local authority must determine such criteria in order to fulfil the requirements of the legislation, noting that, among other factors, education services in Edinburgh must consider how accessible the learning environment is, given the "cultural, linguistic and social profiles of the school" and

¹⁰³ PSE teaching focuses on building understanding of a range of issues related to "physical and mental health, healthy relationships, identity, risk, diversity and equality" and additionally aims to support personal development among pupils (Personal, Social and Health Education (PSHE) Association, 2017).

the necessity of avoiding discrimination (CEC, 2009: 2.1). Practical instruction and guidance is provided as to the role of EAL staff and EAL profiles of competence, which facilitate provision for pupils whose additional support needs are derived from their “developing bilingualism”, in addition to information concerning other ASL staff and processes used when supporting pupils with different needs (CEC, 2009: 3.11). EAL profiles of competence, as the *In on the Act* (CEC, 2009: 3.30) document explained, include information about pupils’ English language competence, the next steps in their acquisition of English or development of existing English language skills, and progress timelines to guide staff expectations and strategies that can be used by class and subject teachers to support the pupils in question. It was emphasised that pupils with additional support needs must not be “treated as lacking capacity by reason only of poor or limited verbal communication skills” and that appropriate support must be secured if, for example, a pupil requires an interpreter (CEC, 2009: 4.5).

The document additionally highlighted the necessity of providing accessible information to the parents and carers of pupils with additional support needs, and referenced language provision in this context, including the language support available through the ITS. The importance of cultural and linguistic sensitivity was also recognised (CEC, 2009: 4.2). A further document, *In on the Act*, was produced, but the only explicit mentions of language provision or EAL pupils were the inclusion of EAL services as an example of support offered in Edinburgh’s schools (CEC, 2019e: 10), the acknowledgement that EAL pupils may require interpreters (CEC, 2019e: 25) and the information (both in written English and using a ‘Happy to Translate’ visual resource) that the document itself could be translated into other languages (CEC, 2019e: [1]).

4.2.5.3 Education services in Glasgow

The *Race Equality Policy Statement and Action Plan* (GCC, 2005) addressed the duty on local authorities and the public sector more widely to eliminate racial discrimination and detailed the specific obligations for education authorities, as established by the *Race Relations Act*

1976 and the *Race Relations (Amendment) Act 2000*.¹⁰⁴ The document formed part of the three-year review process established in the preceding plan, published in 2002, and included details of the progress achieved in line with the previous iteration of the policy (GCC, 2002). Language-related issues were raised in the 2005 plan, which arguably reflects the fact that, while language has tended to be overlooked in the text of domestic equalities legislation in the UK (McLeod, 2008), on a practical level, it is often indirectly relevant to equality issues concerning race, as well as ethnic and national origins, all of which were protected under the *Race Relations Act 1976*, s. 3(1) and are now protected in the *Equality Act 2010*, s. 9(1)(b), 9(1)(c).

The *Race Equality Policy Statement and Action Plan* (GCC, 2005) noted that, since the previous version of the document (GCC, 2002), Education Services had provided “extensive support mechanisms for bilingual pupils” and expanded interpreting provision for parents and carers (GCC, 2005: [2]). The 2005 plan committed the local authority’s education services to progress in a number of areas, including improved support for “ethnic minority and bi-lingual pupils” and added several pupil groups to the list of priorities that had been identified in the 2002 plan, including pupils from asylum seeker and refugee backgrounds and bilingual pupils (GCC, 2005: [3]). Appendix 1 (GCC, 2005) in the report consisted of the *Race Equality Policy Statement*, which provided further details about the actions to be prioritised, and addressed the language needs of young people in educational contexts: the importance of developing better communication practices in order to facilitate pupil participation, “especially with black and ethnic minority young people”, was highlighted, as was the fact that data collected about, for example, pupils’ languages needs could contribute to improved standards of provision and distribution of resources (GCC, 2005: [9]). The Action Plan produced was included as Appendix 2 (GCC, 2005) in the document and committed GCC to a range of measures in line with equalities principles, many of which were related to language needs.

The following necessary actions were identified in the plan: targeted recruitment practices that aimed to increase the number of BME and bilingual members of staff in education and

¹⁰⁴ It should be noted that, as previously mentioned, the *Equality Act 2010* consolidated several pieces of equalities legislation, including the *Race Relations Act 1976* and the *Race Relations (Amendment) Act 2000*, and replaced them.

the development of monitoring mechanisms that would record, among other things, educational attainment among bilingual pupils, in order to enable the “appropriate” distribution of resources, “especially in support of language needs” (GCC, 2005: [13]). Further proposals included improved communication with BME communities through increased access to interpreting and translation provision and monitoring the usage of such provision (GCC, 2005: [14]). Further measures relevant to linguistic diversity and language support included the review of staff training regarding bilingualism, supporting members of staff in obtaining EAL qualifications in order to meet the needs of pupils who were asylum seekers and refugees and participation in consultation and development processes relevant to provision for bilingual pupils (GCC, 2005: Appendix 2: 4, 6, 7). The extent to which language-related issues were raised and to which they formed part of development and improvement plans for education provision in Glasgow reinforces the relevance of language to the field of equalities and particularly to efforts to eliminate discrimination on the grounds of race or ethnic or national origins.

In 2006, GCC published *A guide for parents and carers* (GCC, 2006), which aimed to inform parents and carers about the *ASL Act* and its implementation and offered a good deal of practical information concerning the obligations to which education services are subject with regard to additional support needs, the assessment processes that assist with identifying those needs, and the nature of support that may be available. The documents did not, however, contain many details about specific additional support needs, and there was no reference to supporting pupils who speak allochthonous languages or of EAL services, for example. A report (GCC, 2009a) published about the proposed revisions to the Accessibility Strategy 2009-12 focused on the equalities obligations established for education settings regarding children and young people with additional support needs. The proposed Accessibility Strategy 2009-12 was included as Appendix A (GCC, 2009a) and did address the needs of EAL pupils (who were noted to comprise approximately 17% of the children and young people in Glasgow) in a paragraph that referenced the “particular challenges” that GCC encountered, primarily in relation to communication practices and the provision of information. The strategy recognised the need to make information available in a variety of formats and explicitly acknowledged the needs of allochthonous language speakers when it was stated that the local authority would provide translations of

documents to pupils and to parents and carers in the 15 “most requested languages”, although it did not identify the languages in question (GCC, 2009a: 12). It additionally noted that the provision of “face to face translations” (it is to be assumed that this was in fact referencing face-to-face interpreting, rather than translation) should be increased because this form of language support was recommended by the Scottish Government, as it was preferred by service users and was considered to be “more effective” (GCC, 2009a: 12). The report additionally highlighted the role of the Glasgow Translation and Interpreting Service (GTIS) in providing language support in a range of interactions, such as enrolment interviews, meetings with parents, workshops and information meetings offered to parents and additional support needs assessments (GCC, 2009a: 12).

GCC’s Education Services published a document aimed at increasing the participation of parents in education, the *Working Towards A Parental Involvement Strategy* (GCC, 2009b). It contained little specific reference to language, but did acknowledge the importance of providing “information to parents in a way that is accessible to all taking full account of the diverse nature of our city” (GCC, 2009b: 7) in order to promote inclusion. The strategy also noted the value of parents in the community supporting one another, with explicit mention of bilingualism as an example of an additional support need that parents might have, support for which “will enhance learning at home and will reflect a school committed to inclusion” (GCC, 2009b: 8). The *Parental Involvement Strategy 2015 – 2017* (GCC, [2014b]), on the other hand, made no specific reference to language-related issues, although it should be noted that the webpage on which the document is available for download states that the strategy is currently under review (GCC, [2019f]).

As noted in Chapter Three, section 3.5.2, the guidance published by the Scottish Government (2017c) regarding the *ASL Act* identified having English as an additional language as an example of an additional support need in education settings. GCC (2009c) published a guidance document in 2009 that intended to improve support for pupils with language difficulties and highlighted the need for a consistent approach across educational institutions in the city. Linguistic diversity and allochthonous language speakers were referenced in the guidance document in relation to the interaction between allochthonous language needs and other communication needs, emphasising, for example, the necessity of engaging “bilingual support staff known as *bilingual co-workers*” or professional interpreters

during assessment processes related to additional support for learning and, indeed, noting that ideally the same interpreter or bilingual co-worker should be used throughout the assessment process (GCC, 2009c: 8). Although the practical challenges entailed in meeting such requirements were acknowledged, a failure to provide a professional interpreter or a bilingual co-worker was described as “unethical” (GCC, 2009c: 15) and as “an unjustifiable lowering of professional standards” (Royal College of Speech and Language Therapists (RCSLT), 2007: 12; GCC, 2009c: 8). The document discussed in some detail the complicated nature of assessing additional support needs in cases where the children in question are speakers of allochthonous languages, because it must be determined if those children have “*different and additional*” needs from children who are in the complicated process of acquiring an additional language” (GCC, 2009c: 8). A wide range of factors to be considered during the assessment process were listed, including linguistic and cultural sensitivity, language use and choices within the family, identifying an appropriate method of communication with families, and the attitudes that are held by the child and the family towards language difficulties (GCC, 2009c: 8).

The ESOL policy published by GCC (2010) clarified that discrete ESOL teaching should not be a part of education between S1 and S3, because at this stage, pupils who are learning English should be doing so in the classroom, supported by EAL staff if needed, so that they have access to “the language enrichment that they require in order to fully develop their English language skills” (GCC, 2010: 5). On the other hand, as the policy document noted, ESOL classes are a possible option for pupils in S5 or S6, or for those who arrive in Glasgow in S4 and will not be able to gain a National 5 (previously Standard Grade) in English (GCC, 2010: 7). Guidance was provided in the document about the decision-making process as to whether an ESOL qualification is appropriate for a particular pupil, including relatively detailed information concerning the criteria for presenting for that qualification and, in the event that this is the appropriate choice, the policy document set out guidelines for the delivery of ESOL teaching (GCC, 2010: 6-9). The latter included the observation that teaching may require withdrawing a group of pupils from English classes in order to dedicate some or all of that class time to ESOL classes (GCC, 2010).

The *Equality Progress Report 2019* (GCC, 2019a) that was discussed in section 4.2.4.2 made several references to equalities issues within the education system that were relevant to

linguistic diversity and language support in Glasgow’s schools. The report mentioned the ongoing goal to “include as many children and young people as possible in mainstream¹⁰⁵ provision with appropriate support” (GCC, 2019a: 18), in line with the Education Service’s Inclusion Policy.¹⁰⁶ As noted in section 4.1.1, the report provided figures related to EAL and BME pupils with additional support needs in Glasgow’s schools (GCC, 2019a: 18). Information was included regarding EAL provision in Glasgow, clarifying that EAL staff are “deployed according to need” to work with pupils who have a range of backgrounds, including “new migrants to Glasgow and those who are part of the settled community” and to develop capacity-building within school communities and among teachers, in addition to collaborating with other organisations and building links with pupils’ families (GCC, 2019a: 18). The report identified the EAL service’s objective as “help[ing] these children and young people achieve their potential and [overcoming] any barriers to learning caused by learning in an additional language” (GCC, 2019a: 18). It was additionally noted that the Education Services in Glasgow supported the provision of SQA ESOL qualifications at National 3, 4, 5 and Higher levels in the city’s secondary schools, with reference made to the ESOL policy that provided guidance on delivery (GCC, 2019a: 18-19). With regard to the aforementioned “Improvement Challenge (Literacy and Numeracy)”¹⁰⁷ (GCC, 2017, *Equality Outcomes 2017 to 2021*: 22), the progress report published in 2019 committed GCC to further work focused on possible “additional and/or alternative approaches” to improving literacy and numeracy skills among pupils. In 2016/17, the report noted, this had included collaboration with the EAL service as part of a greater emphasis on fulfilling pupils’ needs and, following this, further partnership with the service, which provided resources such as vocabulary programmes (GCC, 2019a: 51).

GCC has published its own education-specific inclusion strategy, *Every child is included and supported* (GCC, 2016a), which provided guidance to school headteachers and members of staff on supporting children and young people across Glasgow’s educational institutions in an inclusive manner. The policy was revised in 2011 in response to a range of relevant pieces of legislation such as the *Standards in Scotland’s Schools etc. Act 2000*, the *ASL Act*,

¹⁰⁵ Schools that are maintained by local authorities.

¹⁰⁶ The report does not provide further details. The Inclusion Policy referred to is, however, likely to be the *Every child is included and supported* (GCC, 2016a): “Every child is included and supported is Glasgow City Council Education Services’ policy on inclusion” (GCC, 2016a: 1).

¹⁰⁷ Please see section 4.2.4.2 and footnote 98 for further information.

the *Equality Act 2010* and the *Children and Young People (Scotland) Act 2014*, in addition to several consultation processes (GCC, 2016a: 1). It aimed to fulfil legislative obligations, establish the rights of children and young people in Glasgow, and ensure that their needs, including additional support needs, are met in an inclusive way (GCC, 2016a: 3). It should be noted that, as discussed in Chapter Three, section 3.5.2, the *ASL Act* does not explicitly identify additional support needs, but the *ASL Code of Practice* (Scottish Government, 2017c) that offered guidance on its implementation listed having English as an additional language as an example of an additional support need and EAL provision as an example of good practice in supporting pupils with additional support needs. Policies and strategies produced by education services that focus on provision for pupils with additional support needs are therefore relevant to this evaluation of language provision for speakers of allochthonous languages.

The aims stated in the *Every child is included and supported* policy document also included supporting staff in developing relevant skills, promoting collaboration between those supporting the city's children and young people, and recognising the importance of excellent pedagogical frameworks and practices to meeting pupils' needs (GCC, 2016a: 3). The objectives identified in the document did not explicitly reference language-related issues – or, indeed, specific issues of relevance in general – but the body of the policy text did address language needs and language support in the context of children and young people in Glasgow. The *Every child is included and supported* (GCC, 2016a) policy guidelines noted different levels of support that may be required by pupils in education settings and commented that EAL staff may be required to provide support at these various stages, in collaboration with staff from education services and, where appropriate, outside services. It is clarified in the policy document that meeting the pupils' needs “is the responsibility of all staff in all establishments and services to provide additional support for learning”, with support from specialist teams such as EAL staff (GCC, 2016a: 22).

In addition to providing language support for pupils themselves, the language needs of parents and carers are also significant and meeting those needs is necessary in order to enable their understanding of and participation in their children's education. In the *Every child is included and supported* (GCC, 2016a: 23) policy, Glasgow's Education Services committed to ensuring that language and communication support is provided for parents:

[w]here parents need to communicate in a language other than English or use alternative methods of communication, such as Braille or British Sign Language, we will make the appropriate arrangements to enable them to participate in meetings to discuss their child's support needs

and emphasised the right of parents and carers to have a "supporter or advocate" present at meetings addressing their children's additional support needs (GCC, 2016a: 23). Similarly, the policy document affirmed the necessity of taking not only parents' views into account when Education Services is carrying out an assessment of additional support needs, but also those of the pupil in question, who must also have access to communication support:

"Where a child or young person has difficulty in communicating, staff will ensure that he or she is assisted to express his or her views" (GCC, 2016a: 23). Although the references made to "supporters or advocates" and to the communication assistance that must be available in such cases do not specifically mention allochthonous languages or interpreting and translation support, there does appear to be an indirect relevance to language provision, particularly since there is explicit reference to the necessity of providing language support to parents and carers who "need to communicate in a language other than English" (GCC, 2016a: 23).

GCC ([2016b]) also published a document that provided guidance for parents and carers on the *Every child is included and supported* (GCC, 2016a) policy, which contained little reference to language-related issues. The document did state that translations into "other languages" would be available, upon request, and referenced further resources that were available online (GCC, [2016b]: 1). Information related to support for children and young people with "communication difficulties" was included, although the only examples given as to the nature of such difficulties were in relation to autism and Asperger's Syndrome (GCC, [2016b]: 2).

GCC published a report following the 2014 review of equalities in the education system, titled *Thematic Equality Review* (GCC, [2014a]), which began with the following statement: "All learners are of equal value irrespective of their race; gender and gender identity; religion or belief; and sexual orientation. However, this does not mean we treat everyone the same. Sometimes it means giving people extra help so that they have the same opportunities and outcomes as others" (GCC, [2014a]: 1). The review considered equalities issues related to the protected characteristics "as detailed in the Equality Act 2010 and

related Equality Duties” (GCC, [2014]: 3), focusing on race, gender and sexual orientation, in 12 Glasgow educational institutions, and the report in question highlighted the Equality Duties placed on the public sector by the *Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012*. The detailed recognition of legislative obligations regarding equality is notable and indicates a high level of awareness as to the duties these obligations impose on Education Services. In terms of language-related issues, however, linguistic diversity and language needs were only referenced for one institution out of the 12 reviewed (GCC, [2014]); presumably due to the focus on the protected characteristics of race and gender, most of the information provided about the educational institutions in question included in the review related to those two characteristics. In the section of the report that discussed the review’s key findings, on the other hand, language needs were addressed; the value of the ethnic diversity in Glasgow’s educational institutions was highlighted and the provision for pupils who speak languages other than English was commended: “Good arrangements are in place to support young people whose first language is not English to achieve both academically and in wider achievement” (GCC, [2014]: 9), with one institution’s inclusion of the headteacher’s welcome message in an unspecified “community language” in its handbook highlighted (GCC, [2014]: 10).

The report noted some good practices regarding data collection and diversity monitoring, for example the use of “departmental English as an Additional Language (EAL) strategies booklet [sic]”, the maintenance of accurate data and their strategic use in planning provision and tracking progress, the role of bilingual staff members, and the support offered to pupils with their L1 (GCC, [2014]: 9). Although the report concluded that almost all educational institutions made effective use of data concerning pupils who have English as an additional language, it also highlighted that data regarding protected characteristics¹⁰⁸ should be more consistently used and analysed (GCC, [2014]: 10). The report additionally commented that, while a firm commitment to meeting pupils’ needs was observed in all institutions, in many cases this was focused on provision for learning needs, rather than on needs related to the protected characteristics analysed (GCC, [2014]: 11). This may explain why EAL provision was found to be generally commendable, while approaches to protected characteristics were concluded to be in need of improvement. As previously mentioned, support for

¹⁰⁸ As mentioned previously, language was not identified as a protected characteristic in the *Equality Act 2010*.

allochthonous language speakers in the public sector tends to be provided as a pragmatic response to need and tends to take the form of practical provision, such as in-classroom support with English. More in-depth shifts in approach and norms within the public sector, those related to fostering positive attitudes towards linguistic diversity, as well as racial and ethnic diversity, are perhaps less common. The provision of practical support to allochthonous language speakers, particularly if that support comes in an ad hoc form in response to local demographics and needs, rather than as part of a wider, more cohesive approach, does not necessarily indicate that attitudinal barriers, such as those described by Creese (2010), faced by speakers of languages other than English have been removed. In this way, a parallel can perhaps be drawn between the conclusion presented in the *Thematic Equality Review* (GCC, [2014a]) report concerning the tendency for educational institutions to focus on supporting practical learning needs, rather than wider needs related to, in this case, race, gender and sexual orientation, and the risk that language provision in the public sector may be approached in an ad hoc, practical manner rather than as part of a more in-depth strategy that aims to meet the needs of minoritised groups.

4.3 Language-related practice in Scottish public services

Language provision in public services is not limited to interpreting (face-to-face and by telephone) and to disseminating hard copies of translated resources; provision made available online is another significant platform on which language support can be offered to service users. Multilingual online resources provided by public services in Edinburgh and Glasgow differ, but may include information documents available for download in a range of languages or translated signposting to sources of further information, for example. A range of translation tools may also be utilised, to varying degrees of accuracy, which will be addressed in more detail where relevant. The inclusion of information about multilingual provision that is, in some cases, featured in languages other than English, is an important aspect of language provision in the public sector and as such must be considered as part of this research. This section of the Chapter Four will therefore discuss the multilingual or language-related content provided online by the public services that were selected for this research: the SCTS, NHS Lothian, NHS GGC, the CEC, GCC and education services in each city.

Multilingual online provision is useful in promoting awareness of and equal access to the wider support available to service users. Online resources may be a useful first step for allochthonous language speakers who are unable to engage with public services through the medium of English and may help to empower them in further interactions, in addition to providing a reference point more generally with regard to available provision and the entitlements of service users. Furthermore, how public sector bodies communicate with service users online may in some cases reveal wider policies and ideologies: language choices made by public services online have been argued to be examples of their explicit language policies,¹⁰⁹ as seen “through their communicative practices in the modality of new media” (Berezkina, 2016: 28). The languages into which material is readily translated on public services’ websites, for example, may be indicative of the relative value accorded to different languages; language choices in “new media” represent the “(re)production” of language ideologies, because they are both influenced by existing ideologies and can influence the status of a given language in terms of its perceived value (Berezkina, 2016: 22). This may be particularly relevant in relation to allochthonous languages and the value they are accorded within public life.

As such, the nature of online provision developed by individual services can provide an insight into their ideologies, approaches to the language needs of their service users and, since online provision can be a means of providing services, actual practices with regard to multilingual provision. Nevertheless, there is a practical aspect to public service provision, because public sector organisations are obligated to respect equalities requirements and, to some extent, to shape their services according to the needs of service users. Berezkina (2016: 56) noted in her research concerning multilingual state websites in Estonia and Norway that, in the case of the former, the communicative practices of state institutions online showed that at times practical concerns may supersede formal national ideology:

Where a part of the linguistic minority population is not multilingual, the State needs to start ‘speaking’ to this population in their language in order to ensure a well functioning public sector. Thus, in some cases, multilingual websites in a nation-state

¹⁰⁹ The term ‘explicit’ – “or overt, official, de jure, planned” – denotes formal language-related policies or strategies, as opposed to ‘implicit’ “or covert, informal, de facto, unplanned”, which refers rather to language-related practices (Kingsley, 2009: 154). The former does not necessarily shape language practices, whereas the nature of the latter “must be derived from users’ linguistic practices and beliefs” (Hendus, 2015: 398).

are created for practical reasons, as they are needed for communication with audiences who lack the knowledge of the state majority language.

This pragmatic aspect of multilingual content online is an interesting consideration in relation to the following evaluation of the public services included in this research and will be addressed as part of the cross-service perspective discussed in section 4.4. In the following sections of this thesis, however, the focus will be on clarifying the provision currently available online, for both service users and professionals, for the public services in question. This forms an important part of Chapter Four's evaluation of public service language provision in Edinburgh and Glasgow and as such contributes to the discussion of equalities and inclusion issues within increasingly multilingual and mobile European societies.

4.3.1 Language-related practice: the SCTS

Resources are available to help guide members of staff working in the justice system through the process of arranging interpreting provision, but there is no specific training offered regarding working with interpreters (Zduniak, 2018). When working in courts, interpreters are reportedly often treated as members of staff, tend to have positive professional relationships with judiciary staff and are permitted to request clarifications and repetitions when needed and are provided with training on interpreting in court settings (Zduniak, 2018). Judges and sheriffs have a role to play, too: there is a chapter of the *Equal Treatment Bench Book* (Judicial Institute for Scotland, 2018)¹¹⁰ that focuses on court interpreting and, during court cases, judges and sheriffs have a responsibility to monitor any interpreting provided, whether or not they are able to understand the language being used (Zduniak, 2018). This does raise the question of if a monolingual judge is in a position to arrive at such judgments. They also have the power to intervene if they believe that the provision is inadequate or problematic in some way (Zduniak, 2018). Although interpreters are available for many of the most frequently requested languages, as mentioned in the common themes discussed in section 4.1.1, the volume and nature of demand for interpreting and translation can shift. Practical constraints can make service delivery more

¹¹⁰ Founded in 2013, this body "implements [...] training objectives" for the judiciary (Judiciary of Scotland, 2019).

difficult, but the SCTS must nevertheless accommodate the language needs in question due to its legal obligations, as described in Chapter Three (CoE, 1950;¹¹¹ UN, 1966a; OJEU, 2010) regarding the right to interpreting in the justice system.

The SCTS website includes information about equality and diversity requirements to which it is committed as part of its aim to develop “a culture where equality and diversity are firmly established in the way we do our business” (SCTS, [2019a]). The “Equality and Diversity” (SCTS, [2019a]) webpage does not feature any specific references to language provision – with the exception of a list of hyperlinks visible at the side of the page that direct users to language-related webpages (among others), which will be discussed separately below – although it does contain equality principles from the SCTS’ Equality Statement that are relevant to language provision and to those who require language support in order to engage with the justice system. Due to its focus on access issues, for example, the inclusion of the following equality objective is particularly pertinent to users of languages other than English: “providing responsive and accessible services for all court users which recognise their diverse needs” (SCTS, [2019a]). The webpage appears to be available only in English and, although it includes hyperlinks and contact details for those who wish to request the information in other formats, these are also in English.

Although there is not a specific reference made to language support, language barriers for those who cannot engage with the criminal justice system in English threaten accessibility, and the provision of interpreting and translation in order to meet such needs is an example of how this equality objective can be fulfilled. It should also be noted of course that, as mentioned in Chapter Three (in section 3.2), provisions in international legal instruments, including ECHR provisions which were made part of UK domestic law by the *Human Rights Act 1998*, establish specific language-related obligations for criminal justice systems,¹¹² to which the Scottish system is subject; even where language support is not specifically referenced in resources produced at the national level, it is nevertheless an equalities requirement that must be met.

¹¹¹ As noted in Chapter Three, the ECHR was adopted into domestic UK law through the *Human Rights Act 1998*.

¹¹² Examples can be found in the ECHR (CoE, 1950), in Article 5, paragraph 2, Article 6, paragraph 3(a) and Article 6, paragraph 3(c); in Article 9, paragraph 2, Article 14, paragraph 3(a) and Article 14, paragraph 3(f) of the ICCPR (UN, 1966a); and in *Directive 2010/64/EU* (OJEU, 2010).

In comparison to other public services discussed here, the SCTS does seem to have more limited information available on its website about language provision for those engaging with the justice system. Notably, however, the organisation's website does provide some information in several commonly required allochthonous languages and also in Gaelic. Resources that offer guidance on accessing language support are available in the following languages from the SCTS website: Arabic, Cantonese, Gaelic, Mandarin, Polish, Punjabi, Russian and Urdu, with contact details provided to help those who wish to access materials in any further languages or formats (SCTS, [2019b]). The same webpage also informs users that telephone interpreting is available via LanguageLine¹¹³ for those wishing to contact a court (SCTS, [2019b]). Furthermore, two documents, titled "About the Scottish Courts and Tribunals Service" and "Attending a court" respectively – are available for download in the eight languages listed above (SCTS, [2019c], [2019d]). The fact that the SCTS has ensured that such translated resources are readily accessible from its website represents significant multilingual provision and, although the availability of materials in certain languages but not in others could arguably indicate a hierarchy with regard to language ideology, it should be noted that, as previously mentioned, resource constraints and practical concerns within the public sector are likely to play a significant role in such decisions, because resources such as these are intended to facilitate access to information for those who cannot engage with the SCTS through the medium of English.

Users of the SCTS' website are also informed that further language support is available and provided with some instruction regarding how to access that support. Each of the three webpages mentioned above which explain language provision within the SCTS includes the following statement: "If you require the support of an interpreter when you contact a court, a phone based service is available - ask for LanguageLine and the language required", in addition to providing guidance related to BSL interpreting (SCTS, [2019b], [2019c], [2019d]). An additional feature of each of those three webpages is the information that is included with regard to written translations, which highlights that SCTS publications in other formats may be available upon request and provides the relevant contact details (SCTS, [2019b], [2019c], [2019d]). Thus, although more extensive provision is available only in a select group of languages (Arabic, Cantonese, Gaelic, Mandarin, Polish, Punjabi, Russian and Urdu), the

¹¹³ An online video relay interpreting service is also available for BSL users (SCTS, [2019b]).

SCTS website does signpost users of languages other than those eight to further information and support; resource constraints and the realities of language demand may have limited provision in this way, but it seems that the service is committed to meeting the language needs of those interacting with it.

4.3.2 Language-related practice: healthcare settings

4.3.2.1 NHS Scotland

This section will begin by addressing the resources made available online for NHS Scotland services nationally, before moving on to a more focused consideration in line with the research setting of this thesis. There are a number of webpages that form part of websites developed by Scottish national healthcare services such as NHS Scotland and NHS Inform and that are relevant to this study of online communication regarding language services and multilingual provision. As such, the resources relating to these national services will be discussed prior to the more localised focus that will follow. Sections 4.3.2.2 and 4.3.2.3 will report on online provision in the cases of NHS Lothian and NHS GGC respectively, in order to gain a fuller insight into online provision within the two Scottish NHS Boards that were selected for this research.

NHS Scotland's website is titled "Scotland's Health on the Web: Putting Scotland's Health on the Web" and includes a webpage called "Resource for GP Practices" (NHS Scotland, 2018a) that informs GPs about a pilot developed by the Scottish Government that aims to assist GP practices in identifying and delivering patients' healthcare needs. The webpage (NHS Scotland, 2018a) emphasises that use of the resources in question is optional, but does note that they are designed to fulfil significant obligations established by legislation including but not limited to the *Equality Act 2010*, the *Adults with Incapacity (Scotland) Act 2000*, the *Mental Health (Care and Treatment) (Scotland) Act 2003*, the *Children (Scotland) Act 1995*, and the *BSL Act*. Hyperlinks to two different versions of Patient Registration Forms are provided, in addition to an example form, which include language-related details that may have implications for patient care, so that interpreting and translation needs, as well as communication preferences with regard to language, can be recorded (NHS Scotland,

2018a). The creation and availability of a resource intended to help GP surgeries better meet the needs of their patients is a significant development and, in addition to visual resources, which may be available to assist patients in indicating their language needs to members of staff, it seems that significant efforts are being made to promote equal access and support patients who cannot engage with healthcare services through the medium of English.

“NHS Inform” is Scotland’s NHS information website, which aims to support service users in Scotland in making informed decisions about their healthcare and provides a wide range of resources, including those aimed at patients who require language support in order to access healthcare services. The website’s “Contact Us” (NHS 24, 2019a) details include a section specifically for people who speak languages other than English and informs them that they are still able to use the service if English is not their “first or preferred language”, through the telephone interpreting service LanguageLine. The webpage states that its use of LanguageLine allows it to support those who “can’t or prefer not to speak English” (NHS 24, 2019a). The process by which users can request the support of a telephone interpreter is also explained, as is the nature of the three-way conversation that will subsequently take place once an interpreter has been provided, in order to give them access to the healthcare information or advice that they are seeking (NHS 24, 2019a). BSL users are directed to a separate webpage on which the service sets out its efforts to promote accessibility, including BSL interpreting provision, so that “everyone who visits NHS inform (nhsinform.scot) [feels] welcome and [is] able to find information whatever their circumstance” (NHS 24, 2019b).

The NHS Inform website also addresses access issues on its webpage about patients’ rights in healthcare settings; it states that “[y]our Health Board must take your needs into account” (NHS 24, 2019c). A further webpage (NHS 24, 2019d), however, offers the following sub-heading: “Health information in different languages and formats - including BSL, Easy Read and translations”, but in fact contains only a hyperlink to another webpage that provides BSL interpreting videos on a range of healthcare topics. Perhaps this is merely a temporary omission, but at present other language and communication issues are not addressed on this, a webpage seemingly dedicated to such matters.

4.3.2.2 NHS Lothian

Ms Jaouen (2018) noted that there had been a “steep learning curve” for the NHS Lothian in-house service upon its launch and that a certain degree of flexibility was needed in order to respond to challenges, learn from feedback and maintain a high standard of provision. The interpreting service makes language support available to NHS Lothian patients every day of the year, at any time, with any out of hours needs met by interpreters from external agencies, all of which is centrally funded across healthcare services: from hospital appointments, to dental care to general practitioner (GP) surgeries, to home visits, to community midwifery (Jaouen, 2018). At the time of the research interview carried out for this project, the NHS Lothian interpreting service engaged approximately 92 sessional interpreters and additionally employed 3 full-time Polish interpreters (Jaouen, 2018). As mentioned in section 4.1.2.2, NHS Lothian utilises telephone interpreting, provided by the Big Word,¹¹⁴ an organisation with which the NHS Board has a longstanding relationship, when appropriate, in order to efficiently meet service demand (Jaouen, 2018). Between 2,500 and 3,000 requests are received per month, mostly for weekday appointments between 9am and 5pm (Jaouen, 2018). Partly due to use of telephone interpreting, this is a decrease from the period in which interpreting for NHS Lothian was provided by the CEC’s ITS, at which time there were more than 3,000 bookings each month for healthcare appointments (Jaouen, 2018).

Interpreters employed by NHS Lothian are considered part of the NHS Board’s staff, rather than as external providers (Jaouen, 2018). Following recruitment, there is an induction process that includes a minimum of two and a half days of training, which provides an introduction to the organization, healthcare information, equality and diversity and health and safety issues, through both practical training and online learning (Jaouen, 2018). Such training is mandatory for all new members of staff, including interpreters, in addition to further medical training that is required during the first few months of employment and optional additional training opportunities that are also available (Jaouen, 2018). Future training to be developed and made more widely available includes sessions on the

¹¹⁴ The Big Word is a global company that provides interpretation and translation in a range of contexts, including public sector provision (the Big Word, 2019).

management of aggression and violence, which the three Polish interpreters employed full-time by NHS Lothian had attended and found relevant to both healthcare settings and travelling between NHS Lothian appointments (Jaouen, 2018).

With regard to ensuring awareness of the language support available to NHS Lothian patients, information was provided to all registered dental practices and opticians by November 2017, which included telephone interpreting codes and information on the usage of telephone interpreting (Jaouen, 2018). Details were made available to GP surgeries across West Lothian, East Lothian, Midlothian and Edinburgh through a network of practice managers, while NHS Lothian hospitals have access to information about the interpreting service on the intranet system (Jaouen, 2018). In terms of spreading awareness among NHS Lothian patients about the available language provision, while there had been some information sharing with the ITS service, in addition to organised focus groups and the development of visual language charts to help identify language needs when communication in English is not possible, third sector organisations are responsible for much of the awareness raising (Jaouen, 2018). Charities that work with minority ethnic communities, for example, are central to informing NHS Lothian patients about their entitlement right to an interpreter (Jaouen, 2018). The apparent perception that patients have a 'right' to language support, as found in the *Interpreting and Translation Policy* (NHS Lothian, 2010) discussed in section 4.2.3.2, is notable, given the lack of an explicit legislative right to language provision in healthcare settings.

At the time of the interview, however, there were limited resources available in languages other than English, both in terms of physical documents and information online, where there were some details about patients' access to interpreting, but only in English (Jaouen, 2018). The service reportedly aimed to produce an informative leaflet, in the ten most commonly required languages, which would provide details about the entitlement to interpreting, as well as the confidential and free of charge nature of NHS Lothian's interpreting service, and at the time of interview, a leaflet containing guidelines on interpreting and feedback processes that aimed to help patients to access the service "with peace of mind, and just as equally as their peers" had been developed but not yet translated (Jaouen, 2018).

NHS Lothian's webpage about TICS is located in the "Your Rights" section of the website and clarifies the organisation's perception that language provision is a right and is connected to equality issues. The significance of language provision to patients' rights is reinforced by the "TICS" webpage recognising communication barriers and the access restrictions they can cause: "We want to ensure that people can access our services effectively and efficiently. Communication difficulties are a barrier for people accessing health care" (NHS Lothian, 2011a). The webpage also acknowledges the challenge that communication difficulties can pose for NHS Lothian staff, since they can complicate the delivery of patient-focused healthcare, in addition to specifically noting that language barriers can hinder access to healthcare services for patients who are not proficient in English (NHS Lothian, 2011a). A link is also provided to the *Interpreting and Translation Policy* (NHS Lothian, 2010), although it is referred to simply as the "Interpretation and Translation policy" on this particular webpage, which was discussed in section 4.2.3.2 of this thesis.

Although this section of NHS Lothian's website highlights its interpreting and translation services as examples of the communication provision it offers, it should be noted that the information presented on this webpage is not necessarily up to date - in fact, the webpage includes the date of its most recent review: "Last Reviewed: 01/06/2011" (NHS Lothian, 2011a). The text of the webpage also mentions that several communication support services provided by NHS Lothian are organised through the CEC, which additionally co-funds the provision (NHS Lothian, 2011a). Although the services that are specifically mentioned on the webpage, and to which these statements apply, are not only the interpreting and translation services ("specialist staff" are also listed as one of the communication supports that are available to patients), the information concerning the role of the CEC appears to relate to the interpreting and translation provision as well, when in fact, as mentioned previously, NHS Lothian now has its own in-house service (Jaouen, 2018).

The "TICS" webpage directs users to more detailed information about provision: the interpreting and translation services available to the NHS Board's patients, in addition to the specialist staff¹¹⁵ who facilitate equal access across services. Significant features of NHS

¹¹⁵ The "specialist staff" mentioned on this webpage (NHS Lothian, 2011a) are listed on another (NHS Lothian, 2011e) and include: Speech and Language Therapists, Learning Disability Liaison Nurses and members of staff from the Minority Ethnic Health Inclusion Service.

Lothian's interpreting provision – the points of contact at which patients can request the support of an interpreter, circumstances in which healthcare services should be notified of patients' late arrival or non-attendance in order to ensure the most efficient use of interpreters' time, and feedback opportunities, for example – are highlighted on the "Interpreters" webpage (NHS Lothian, 2011b). The webpage also clarifies that interpreting is provided free of charge to NHS Lothian's patients and that the children of patients will not be permitted to act as interpreters during medical treatments or appointments (NHS Lothian, 2011b), which reflects the information provided during the interview with a Service Manager from NHS Lothian's interpreting service (Jaouen, 2018) and discussed in section 4.2.3.2. At the bottom of the "Interpreters" (NHS Lothian, 2011b) webpage, a link to a document titled "Interpeting [sic] Service Information Leaflet" is provided; it is not possible, however, to view this document without signing in to the website and therefore appears to be inaccessible to the public.

The NHS Lothian webpage that focuses on translation provision – which is signposted from both the "TICS" (NHS Lothian, 2011a) and "Accessibility" (NHS Lothian, 2011c) webpages – lists the various forms of translation available to service users: translation into languages other than English, as well as the production of materials in symbols and pictograms, in large print and in Braille, in addition to audio resources (NHS Lothian, 2011d). The first type of translation listed, into languages other than English, is the kind that is relevant to this research. The webpage notes, presumably in relation to all forms of translation, that translations are provided on request, in cases when it is necessary and when it is deemed to be useful, which means that, if the information in question has not previously been translated into the requested language, it can take some time to produce the required materials (NHS Lothian, 2011d). An increasing variety of translated resources are available online, through NHS Inform,¹¹⁶ however (NHS Lothian, 2011d).

The information provided on the "Specialist Staff" webpage is largely related to communication difficulties other than language barriers that are related to a lack of proficiency in English and therefore will not be discussed here, but it should be noted that the webpage does include a brief reference to NHS Lothian staff who work in the Minority

¹¹⁶ Scotland's NHS information service (NHS Inform, 2019).

Ethnic Health Inclusion Service, mostly in community care, who provide advice and support to patients from minority ethnic communities, asylum seekers and refugees (NHS Lothian, 2011e). It should not be assumed that all of the communities with which such a service works will require language support when engaging with NHS Lothian healthcare services, of course, but it is likely that language-related issues may be encountered by staff in the course of their work and may play a role in matters of inclusion (or exclusion) with which the service is concerned.

As highlighted at the beginning of this section, NHS Lothian does explicitly recognise the connection between language barriers and equal access to healthcare services (NHS Lothian, 2011a), which is significant, as is the fact that such statements are situated within the section of its website that addresses patients' rights. This apparent perception of language provision as derived from and in line with equalities and rights frameworks appears to be consistent with the issues and resources discussed in section 4.2. Significant provision appears to be in place with regard to language support and this is accompanied by webpages informing service users of the support available to them. Many of the webpages considered here do not seem to have been updated for several years, however and, while the nature of provision itself may not have altered very much in that period, certain operational changes have taken place, which does suggest that perhaps a more recent review would be appropriate. Although NHS Lothian does include details of its language support services on its website, it should be noted that the webpages discussed above are all written in English and there is no obvious indication of online translation provision for the content of its website, which could exclude those who cannot access the information in English. Nevertheless, as this discussion has shown, there is a significant amount of information online relevant to language-related issues and communication support, which does suggest an awareness within NHS Lothian of the importance of such provision.

4.3.2.3 NHS Greater Glasgow and Clyde

At the time of the interview, the NHS GGC interpreting service received more than 500 daily requests for language support in approximately 70 different spoken languages, BSL and touch-sign; sign language appointments numbered between 40 and 50 out of that daily total

(Stewart, 2017). A range of NHS outlets use NHS GGC's language provision, including acute care (hospitals), GP surgeries, dental practices, mental health services, health centres and services that support asylum seekers and refugees who have experienced trauma (Stewart, 2017). As a result, interpreters attend a variety of appointments, from brief dental check-ups, to mothers in labour and supporting asylum seekers with trauma (Stewart, 2017). The service employs 14 interpreters who work in the top five most frequently required languages; all requests are dealt with first by them if possible and, if not, are passed to one of the 400 sessional interpreters who can be engaged when necessary to meet demand (Stewart, 2017). According to Mr Stewart, approximately 98.7% interpreting requests are fulfilled, although he did note that the interpreting service strives to meet every request (Stewart, 2017).

Sessional interpreters are self-employed, and while they work with NHS GGC's interpreting service, they may also provide interpreting to fulfil requests received from other agencies, such as the courts and the police (Stewart, 2017). Telephone interpreting for NHS GGC is provided by an external agency, LanguageLine¹¹⁷ (Stewart, 2017). While telephone interpreting can be useful in healthcare settings and NHS GGC tries to maximise this form of interpreting when possible in order to meet service demand, there are some cases where its use is considered to be inappropriate, such as in appointments with minors (Stewart, 2017). The details of interpreting and translation needs are determined by patients and by the health professionals and services they interact with directly; the interpreting service itself does not have a role in determining details of the provision such as the duration or type of interpreting required and is simply obliged to fulfil the requests received (Stewart, 2017).

The DPSI is considered to be beneficial to NHS GGC's language provision; attainment of this qualification is deemed to differentiate interpreters and is sought in recruitment processes for the NHS Board (Stewart, 2017). The NHS GGC interpreting service works closely with the NHS Board's equalities team, which participates in the training and induction processes that interpreters undertake (Stewart, 2017). The training that is provided for all NHS GGC incorporates material relevant to interpreting in order to familiarise all members of staff with the procedures involved in working with interpreters, including guidelines, support and

¹¹⁷ Please see section 4.1.2.3, footnote 60, for further information.

signposting to the NHS Board's informative intranet (Stewart, 2017). NHS GGC also utilises focus groups and reference groups to gather feedback from patients about their experiences with healthcare services, including interpreting and translation provision; the feedback received is seen as "invaluable" and helps shape the service (Stewart, 2017).

Facilitating awareness of the language provision that is available to service users is crucial, particularly given the wide range of NHS GGC services with which patients may interact and for which they may require interpreting and translation support. A variety of materials are available to assist patients who cannot access healthcare through the medium of English in navigating services at the point of access, such as 'GP cards' that contain the patient's basic details (name, date of birth, address, for example) and can be used at reception, for instance, in addition to other non-healthcare settings (Stewart, 2017). Additionally, information leaflets about the interpreter booking process should, reportedly, be available in every GP surgery in the region, translated into 20 or 30 different languages, which help new patients to understand their entitlement to an interpreter and to highlight their language needs (Stewart, 2017). With regard to asylum seekers and refugees, Mr Stewart (2017) explained, third sector organisations and services that are their first point of contact upon arrival should ensure that they are informed of the healthcare services and language support available to them; the NHS GGC's equalities team collaborates with them to provide documents, posters, individual cards and other resources that raise awareness of provision. This reflects the statements made by Ms Jaouen (2018) concerning awareness raising of NHS Lothian provision, which were noted in section 4.3.2.2.

The equality and diversity section of NHS GGC's website (NHS GGC, 2019d) sets out the organisation's values, objectives and the training opportunities it offers to its staff members that are relevant to its principles and that further its aims with regard to equality and diversity. In addition, hyperlinks are provided to several of its related publications, such as NHS GGC's *Equality, Diversity and Human Rights Policy* (NHS GGC, 2014a). Among the training modules detailed is one named "Working with Interpreters", which, in addition to identifying the potential risks,¹¹⁸ for both patients and members of staff, of language

¹¹⁸ These risks will be outlined later in this section.

barriers in healthcare settings, clarifies the significance of interpreting services to equality and inclusion considerations:

NHSGGC is committed to providing equal access to healthcare for all service users. The provision of interpreting services is a vital part of the ongoing work to ensure that everyone receives the best possible care. Interpreting services address a number of risks for both service users and staff (NHS GGC, 2019d).

A further webpage, titled “Equality, Diversity & Human Rights” (NHS GGC, 2019e), provides similar information relating to NHS GGC’s commitment “to developing an organisational culture that promotes Equality and Diversity”, which reinforces that these values are held internally, in relation to staff and training, and externally, in relation to its engagement with service users. Both webpages state that the NHS Board aims to be “a just and inclusive organisation” and lists characteristics according to which patients must not face discrimination (NHS GGC, 2019d, 2019e).

As with the ‘protected characteristics’ identified in the *Equality Act 2010*, language is not explicitly included in the aforementioned list on either webpage, although it could arguably be connected to ‘race/ethnicity’, which is mentioned (NHS GGC, 2019d, 2019e). In order for NHS GGC to promote equality and inclusivity and to achieve its previously mentioned objective of being a “a just and inclusive organisation”, the organisation must prevent “prejudice, discrimination, alienation, or social exclusion”, in addition to ensuring that its services are “accessible, appropriate and sensitive to the needs of all service users” (NHS GGC, 2019d, 2019e). Although it is true that language-related issues are not explicitly mentioned in the main text on either webpage, the importance of removing barriers to access in healthcare settings is stated: “[n]o-one should be excluded or experience particular difficulty in accessing and effectively using our services” (NHS GGC, 2019e). As highlighted in the description of the “Working with Interpreters” training module provided on the “Equality and Diversity” webpage (NHS GGC, 2019d), for patients who are unable to fully engage with healthcare through the medium of English, language barriers can hinder equal access, while interpreting and translation services represent provision that is in line with NHS GGC’s principles of equality and inclusivity.

NHS GGC’s website provides fairly detailed information about its interpreting and translation provision, including information that is tailored to both its patients and to staff

members. On a webpage dedicated to patients' frequently asked questions (FAQs), the booking process is outlined and patients are informed that interpreters engaged by NHS GGC are held to the same standards as other health professionals: "Interpreters are trained in clinical communication and bound by the same rules regarding patient confidentiality as other healthcare workers" (NHS GGC, 2019a). The fact that time constraints can have implications for language provision in healthcare settings is also referenced, as the information on the webpage states that as much notice as possible should be given when face-to-face interpreting is required, additionally noting that telephone interpreting may be used in emergency cases or when short notice language support is needed (NHS GGC, 2019a).

This particular webpage does not include a list of spoken languages in which interpreting and translation provision is available (NHS GGC, 2019a). Furthermore, the guidance does not include any visual means of informing service users about the support available to them, or any translated details; the information is in written form only and only in English. It is therefore not likely to be accessible to patients who do not speak English, unless they receive assistance at this point. The first instruction relevant to language provision that is included on this webpage (NHS GGC, 2019a) clarifies the interpreter booking process, referring to medical appointment letters, for which the default language is likely to be English, and which could pose an additional obstacle to access for patients who cannot speak English. Without interpreting and translation provision, both the information provided on this webpage and, potentially, the appointment letter mentioned, would be unlikely to be accessible to patients who cannot access healthcare services through the medium of English, which raises questions relating to inclusion and equality. Such patients would be at a disadvantage in comparison to patients who are fluent or competent in English and inequalities in healthcare settings can have serious implications.

This issue is seemingly acknowledged, as the subsequent FAQ in this "Health Rights" section of the website is titled "Can I get information in other languages?" and addresses the inaccessibility of healthcare information for those who cannot access it in English, highlighting the necessity of assistance from someone else: "To get health related information in other languages you should first ask the person caring for you or giving you the information who should be able to provide or arrange this" (NHS GGC, 2019a). Of

course, if a patient has support available from someone who is proficient in English, this information is helpful and clarifies useful details regarding language provision in NHS GGC services, but without such support, language barriers may prevent service users from benefitting from it. Patients using the webpage are signposted to the NHS 24 website: “Alternatively you can also visit the NHS 24 website translations page” (NHS GGC, 2019a).

The NHS 24 website states that LanguageLine is used to support callers who cannot, “or prefer not to” (NHS 24, 2019e), communicate with staff in English, highlights that this telephone interpreting service is confidential and free to use, and instructs users on how to request language support (NHS 24, 2019e). The webpage furthermore provides translated information sheets that are available for download in ten different languages: Arabic, Bengali, Bulgarian, Cantonese, Kurdish, Mandarin, Polish, Romanian, Slovak and Urdu (NHS 24, 2019e). This is a notable example of online provision, because multilingual information and instructions are immediately available.

As previously mentioned, in addition to details made available to service users, guidance on multilingual provision for NHS staff members can also be found on NHS GGC’s website. The webpage “Communication and Language needs” (NHS GGC, 2019b) informs healthcare staff about the process of identifying patients’ language needs, emphasising that language support should be requested several weeks in advance of a patient’s appointment (a practical barrier that risks discouraging or hindering language provision), in addition to providing access to a number of useful resources. Among these resources (NHS GGC, 2019b) is a language identification card, a document containing a series of visual communication aids to assist healthcare staff in obtaining significant information from patients and an informative flowchart of the interpreter booking process. It is interesting to note that this webpage (NHS GGC, 2019b) refers to patients’ “preferred” languages, rather than explicitly highlighting the practical needs of service users who cannot access healthcare through the medium of English. This is a notable and fairly expansive interpretation that suggests that language preference is respected and that language *preference*, as well as need, could be a basis for receiving interpreting and translation support.

Further information for NHS GGC staff can be found on the webpage titled “Interpreting Services”, which includes operational details of the interpreting provision,¹¹⁹ as well as information about telephone interpreting provision (which will be discussed below), signposting to the Interpreting Service, and provides a series of links to further information concerning provision (NHS GGC, 2019c). These links consist of: contact details; a “Quick User Guide” that provides details of telephone and face-to-face interpreting; further information about the former type of interpreting; a guide to support that is available for BSL users; a section on written translation provision; contact details for out-of-hours services; and, additional resources (NHS GGC, 2019c). A selection of these topics will be discussed in more detail below, but the availability of all of this information within the human resources section of NHS GGC’s website should be noted. The development of this series of webpages that inform NHS GGC staff about interpreting and translation provision across the NHS Board’s services is notable and suggests a recognition of the importance of support for patients who cannot engage with healthcare services through the medium of English. For members of staff, access to information and training with regard to language provision is likely to be useful, and the fact that webpages have been developed for the NHS GGC website that cover a range of related topics, such as different types of interpreting, the availability of written translation, details about practical processes, and also access to helpful resources, is indicative of a practice-based approach and an awareness of the level of interpreting and translation demand experienced by the organisation.

As seen in section 4.1.2.2, telephone interpreting can play a valuable role in language provision within the public sector, as it can lessen the pressure of high demand on face-to-face interpreting services and is available at short notice. The main webpage providing information about interpreting services for NHS GGC staff refers to the availability of telephone interpreting services, 24/7 and 365 days of the year (NHS GGC, 2019c).

Information about telephone interpreting provision can be found in relative detail on the specific “Telephone Interpreting” (NHS GGC, 2019g) webpage, which, along with the other links previously mentioned, is accessible from the principal “Interpreting Services” webpage

¹¹⁹ The webpage states that the NHS GGC Interpreting Service employs 12 full-time interpreters and approximately 300 sessional interpreters, in addition to 12 sessional BSL interpreters and note takers and lip speakers for patients who are hard of hearing (NHS GGC, 2019c). It should be noted that these numbers differ from those provided during the research interview with the Team Lead from NHS GGC’s interpreting service, which could be due to a number of factors, such as figures changing over time.

(NHS GGC, 2019c). Details are also provided as part of the “Quick User Guide”, which advises staff on the process for organising telephone interpreting and includes a link to a list of the ‘Language Codes’ that should be used (NHS GGC, 2019f). A recent NHS GGC strategy development with regard to telephone interpreting can be found on the organisation’s website: as of 1 April 2019, telephone interpreting is used across NHS GGC’s services for all appointments under 41 minutes in duration, unless the patient in question is a child or has “additional vulnerabilities”, such as cognitive impairment (NHS GGC, 2019f). The webpage also states that for appointments in which complex issues are to be discussed, or in which a patient will receive bad news, face-to-face interpreting may be available (NHS GGC, 2019f).

A webpage focused on translation services is also signposted from the “Interpreting Services” online directory and advises staff that most translations are completed in approximately four days and that it is necessary to follow certain guidelines: to submit the required translation in the desired format; to inform the service if a translation request is urgent; and, to indicate whether or not the content to be translated is clinical information (NHS GGC, 2019i). It is also suggested that, if the required translation is “a simple appointment letter with no patient instruction”, telephone interpreting rather than a written translation should be considered (NHS GGC, 2019i). Within the series of hyperlinks that can be found on the aforementioned principal webpage, “Additional Resources” (NHS GGC, 2019h) directs users to further documents that are relevant to facilitating interpreting and translation provision for NHS GGC’s service users. The following resources are available: “How to access interpreting support - April 2019”, which offers guidance on identifying the type of interpreting required and contact details for the relevant services; one language identification pocket card and one language identification poster, both of which are designed to assist in determining the language support needed; and, a document that explains the process for organising telephone interpreting (NHS GGC, 2019h). Practical resources related to interpreting provision can also be found on other webpages that form part of the NHS GGC website – for example, a Language Identification Card can also be downloaded from the “Communication and Language needs” (NHS GGC, 2019b) webpage that is located within the “CDM Local Enhanced Services” section of the website that aims to “support practice staff” (NHS GGC, 2019j) and from the “Producing Accessible Information”

webpage on the “Equalities in Health”¹²⁰ website (NHS GGC, [2019r]) that will now be discussed.

In addition to the NHS GGC website, the “Equalities in Health” website details the service’s actions to facilitate fair and equal provision for service users. The website’s section on tackling racial inequalities includes information about interpreting and translation needs, highlighting obstacles that may be encountered by patients who cannot access healthcare through the medium of English: inability to give informed consent; inability to request information, understand their healthcare or follow care plans; lack of awareness of available healthcare services; limited understanding of their rights and responsibilities in healthcare settings, and different cultural perceptions of health and illness (NHS GGC, [2017], 2019d). It is notable that there is recognition of how language barriers hinder access to healthcare and the importance of language provision on a webpage focused on race. This is another example of how language issues are subsumed within ‘race’ in public services, and of the impact of the *Equality Act 2010* and its framing. Potential issues encountered due to language barriers in healthcare settings are also addressed elsewhere on the “Equalities in Health” website: a webpage titled “Communication Support & Language Plan” describes a hypothetical situation in which a parent is unable to communicate with healthcare staff about their child’s health problems, stating that this is a “frightening” scenario in which service users may find themselves if they face communication barriers, including an inability to engage with healthcare services and staff in English (NHS GGC, [2019q]). The webpage acknowledges that there can be “real consequences” for patients’ health and the services to which they have access when communication barriers exist and that “many” patients miss medical appointments or are not able to access healthcare services due to language barriers (NHS GGC, [2019q]).

Returning to the “How we are addressing race issues” webpage, it is notable that this section of the webpage, focused as it is on NHS GGC’s interpreting service, explicitly links interpreting support with equal access to healthcare processes and references the NHS Board’s legislative obligation to facilitating that equal access: “Ensuring that everyone has an equal opportunity to engage in the health care process benefits all concerned. In

¹²⁰ This NHS GGC (2019n) website explains the efforts to promote equality and fairness for staff and service users.

addition, equalities legislation stipulates that the organisation must be pro-active in ensuring that this is the case” (NHS GGC, [2017]). The publication *Meeting the Requirements of Equality Legislation* (discussed earlier in this chapter, in section 4.2.3.3) is mentioned on the same webpage and its purpose is identified as detailing how NHS GGC fulfils its legal equalities obligations and clarifying how its equalities measures will be monitored and assessed with regard to racial equality for both NHS GGC’s service users and staff (NHS GGC, [2015a]).

The webpage “Alternative Format/Language Text” (NHS GGC, [2019o]) notes that, as a statutory body, NHS GGC is required to provide healthcare information in formats that can be understood by all of its service users, including allochthonous languages. As a result of this equality requirement, the webpage states that each time an existing NHS GGC document or publication is reviewed, and each time a new document or publication is produced, they should be made available in the five most often-required languages – to be reviewed each year – in addition to fulfilling individual translation requests (NHS GGC, [2019o]). In order to raise awareness of available language support, an insert has been produced that consists of the statement: “If you require this information in an accessible format, such as large print or braille, or in a community language, please use the contact details on your patient information leaflet or letter” (NHS GGC, [2019o]). It is available in English and in the six most commonly requested allochthonous languages, which, at the time of publication, were Polish, Mandarin, Romanian, Arabic, Urdu and Farsi (NHS GGC, 2019o]). The insert is available to download and to order from the “Alternative Format/Language Text” webpage on the ‘Equalities in Health’ website, in various formats and, according to the webpage, “should be placed in all leaflets”, appointment letters and pre-attendance information posted to patients and can also be given to patients on admission, or to those attending clinics for dissemination, while the same translations are visible on posters and screens displayed in healthcare facilities (NHS GGC, [2019o]). Another page on the “Equalities in Health” website provides (in addition to the version previously mentioned, in which the document includes the text written in English, Polish, Mandarin, Romanian, Arabic, Urdu and Farsi) hyperlinks to the information in an audio version, in a BSL video recording and in word and pictures versions in the following languages: English, Simplified Chinese, Urdu, Polish, Punjabi and Arabic (NHS GGC, [2019p]).

The information discussed above appears to be largely in line with the NHS GGC policy considered in section 4.2.3.3, which does suggest consistency of strategy, although of course testing service users' experiences of actual provision is beyond the scope of this research. While there is a great deal of noteworthy information and awareness-raising, for both staff and service users, across both the NHS GGC's main website and the Equalities in Health website, there are also limitations with regard to this online provision. The "Language Resources" webpage that is located in the "Staff Training and Resources" section of the Equalities in Health website appears to contain hyperlinks to a relatively significant number of useful webpages and resources: "Alternative Language Text", "Patient Information: Translated Leaflets by Category", "Interpreting Resources", "British Red Cross Multilingual Emergency Phrases" and "Producing Accessible Information". The "Patient Information: Translated Leaflets by Category" and "Interpreting Resources" links, however, redirect users to "Page Not Found" messages (NHS GGC, [2019s]). Notably, NHS GGC's websites seemingly feature readily available translated materials, although these do tend to be in the form of inserts such as those mentioned above, rather than webpage translations, and the webpages are written in English.

4.3.3 Language-related practice: Scottish local authorities

4.3.3.1 City of Edinburgh Council

The ITS is based at the CEC's administrative headquarters and employs approximately 60 interpreters, 30-40 of whom actively work as interpreters on a daily basis, while others work more irregularly or out of hours, for example at weekends (ITS Manager, 2017). Interpreters and translators employed by the ITS are considered CEC employees and as such they have access to a range of resources and benefits that are not always available to those who are freelance interpreters (ITS Manager, 2017). There are no guaranteed hours, because work that is available to ITS interpreters varies according to service demand, so there are "peaks and troughs. On a local level, it depends on what's happening around, in and around the city" (ITS Manager, 2017). While some of the ITS' interpreters are qualified for multiple languages, in most cases, their qualifications apply to one language in particular; it was noted that a significant financial and time commitment is needed in order to meet the

recruitment requirements in one language, let alone in multiple languages (ITS Manager, 2017).

Interpreters employed by the ITS are informed about the service's obligations through the induction documents they receive prior to commencing work with the ITS. These provide an insight into what they might expect from the role, including examples of assignments and guidance to good practice (ITS Manager, 2017). Subsequently, during the induction process itself, training is provided that incorporates hypothetical scenarios related to complex issues or cases, in order to prepare interpreters for situations they may encounter in the course of their work (ITS Manager, 2017). If ITS staff require or wish for further training, this can be considered on a case by case basis, and those employed by the CEC are able to utilise the support procedures offered, such as the Employee Assistance Programme, which offers free, 24/7 counselling and advice services (ITS Manager, 2017). The ITS Manager (2017) stated that interpreters are never in a position to engage with such difficult cases alone, because when they attend an appointment or interaction with a service user, they will always do so as part of a team, alongside the CEC officer or professional who requested their support (ITS Manager, 2017). There are, however, cases in which a service user's interaction with an interpreter is not a positive one, for a variety of reasons that may include sociocultural factors such as "complex ethnic tensions", for example (ITS Manager, 2017). This can lead to complications with interpreter-service user interactions and is a situation that the CEC tries to avoid by being aware of service users' needs, which may extend beyond the linguistic and engage cultural and political issues, wherever possible.

In order to raise awareness of the multilingual provision that is available to service users, information about the ITS is available in multiple forms, such as publicity materials and visual language aids, at all local CEC offices that are publicly accessible – including 'one-stop shops' and community centres (ITS Manager, 2017). The ITS Manager (2017) described the information available to staff on the CEC's intranet as "extensive" and identified language provision as necessary to ensuring that equality obligations and any other relevant statutory obligations are fulfilled.

As part of the research that informed my MSc dissertation, I discussed the translation options available on the CEC's website at the time and evaluated the quality of provision. The CEC's website did inform users about the ITS, but only limited information was available

(McKelvey, 2013), which, given the fact that the website may be the first point of access for allochthonous language speakers who need language support, was arguably problematic, because it hindered equal access to CEC services and risked exclusion and isolation as a result of language barriers. At the time, a ‘Language Chart’ that was sent to CEC offices and NHS Lothian¹²¹ healthcare services listed the languages in which provision was offered, in order to provide a visual method with which service users could indicate their language needs to staff; the chart and its list of languages was in the process of being updated to more accurately reflect increased service demand and the subsequently a more diverse range of languages in which support was offered (Ng, 2013; McKelvey, 2013). Currently, details of language provision made available by the local authority appear to remain limited on its website. If resource constraints limit how comprehensive details provided on the CEC’s website can be, perhaps its online provision could be made more inclusive and accessible through the addition of a ‘Language Chart’, or a similar resource, which would inform service users of the languages in which ITS provision is available, using a visual method to communicate the range.

At the time of my MSc research, the CEC’s website also included details about its online translation services, which included the translation of CEC webpages into 57 different languages, listed alphabetically, most¹²² of which also had a hyperlink to a translation of the homepage of the CEC’s website into the language in question (McKelvey, 2013). The fact that translations were available in such a wide range of languages was very notable, suggesting a fairly inclusive, comprehensive approach, but the quality of translation was questionable in that the hyperlinks redirected users to ‘Google Translate’, which is not always a reliable translation tool. The chief executive of the Association of Welsh Translators and Interpreters characterised the suggested use of Google Translate for Welsh Assembly proceedings as “ridiculous”, because mechanical translation remained “very much in its infancy”, was “recognised as having failings”, and was “nowhere near sufficiently developed to translate official documents” (Parry, quoted in BBC, 2011). More recently, Wrexham Council in Wales advised members of staff to avoid using Google Translate in a professional

¹²¹ At that time, interpreting and translation for NHS Lothian was delivered by the CEC’s in-house service.

¹²² The languages for which a ‘language pack’ was required – Japanese, Korean, “simple and “complex” Hindi and Chinese languages – did not include such a link (McKelvey, 2013).

context, following complaints received about inaccurate translations on signs in public locations (BBC, 2018a, 2018b).

Furthermore, the translation of the homepage of the CEC's website, while potentially helpful, did not equate to equal access for service users who could not engage with the CEC through the medium of English, unless translations were available across the CEC's website, which they were not. Additionally, the information available online concerning language provision remained limited, with service users encouraged to contact the ITS via email or telephone; even though interpreting was available, this could nevertheless have been a barrier to access. In any case, the webpage in question no longer appears to exist on the CEC's website and as a result the local authority's online provision is seemingly even more limited than it was during my previous research project in 2013.

The CEC website does still include a webpage informing users about its interpreting and translation provision, which outlines the reasons why a service user may require language support and states that interpreting and translation services "may" be provided (CEC, [2010b]). Users are advised to contact the CEC in order to access support so that it can "consider" their needs and arrange provision as appropriate (CEC, [2010b]) and the webpage appears to be available only in English, with no clear indication of online translation facilities, a "Happy to Translate" icon or other visual resource. Further mention of language provision is made on the "Contact the City of Edinburgh Council" (CEC, [2019j]) webpage, which is also written in English, advises to users to contact the local authority's ITS ("If you need information in another language please contact our Interpretation and Translation Service") and provides a hyperlink that redirects to the aforementioned "Interpretation and translation" webpage (CEC, [2010b]). Service users who require language support because they cannot access services in English are therefore seemingly informed about that support in English, which likely hinders access and inclusion. It does appear that the CEC's online provision is rather limited, although it should be noted that both webpages state that the CEC's website is undergoing development (CEC, [2010b], [2019j]) and there is a possibility that this will improve.

4.3.3.2 Glasgow City Council

The GCC Linguistics Service works with approximately 160 interpreters, all of whom are sessional interpreters; approximately 80 of those are active with the service at any one time; those who can provide language support in the ten languages that are most frequently required (see section 4.1.1) by GCC's service users (Operations Manager, 2019). In addition, there is a small administrative team that includes a coordinator who manages the administrative staff and interpreting provision (Operations Manager, 2019). Although GCC requests constitute most (approximately 96%) of the demand experienced by the Linguistics Service, language support is also provided to a number of clients, such as other local authorities, charities and housing associations (Operations Manager, 2019). In addition to actively providing interpreting and translation services, in a relatively small number of cases, to other local authorities in Scotland, the sharing of good practice with other local authorities in Scotland is also valued by the Linguistics Service (Operations Manager, 2019). Among GCC's departments, Social Work is the source of the majority of interpreting requests received by the Linguistics Service, representing approximately 72%¹²³ of its service demand, while almost 22% of requests come from the education department; other departments within the local authority account for just over 2% of annual requests¹²⁴ (Operations Manager, 2019).

Most of the service's demand is for interpreting provision, rather than translation: approximately 99% of the support it provides is in the form of interpreting, most of which is delivered face-to-face (Operations Manager, 2019). A limited amount of telephone interpreting is provided, but only in the form of brief, informative phone calls (Operations Manager, 2019). In cases when the Linguistics Service is unable to fulfil a request, the GCC department from which the demand was received will engage an interpreter from an external agency, primarily Global Languages (Operations Manager, 2019). Approximately 10% of language provision is supplied by external interpreting agencies, for example during out of office hours, when agencies are able to provide interpreters relatively quickly, and it

¹²³ The percentages correspond to the following figures: 20,870 total requests received; 15,071 pertaining to Social Work; 4,557 to Education and 478 to other GCC departments (Operations Manager, 2019).

¹²⁴ Figures refer to the financial year beginning 1st April 2018 and ending 31st March 2019 (Operations Manager, 2019).

was stated during the research interview that no issues relating to the use of interpreters from external agencies have been raised (Operations Manager, 2019).

Though the Linguistics Service reportedly does its best to meet demand promptly, it is not always possible to provide language support on the same day on which a request is received, due to interpreters' existing commitments (Operations Manager, 2019). In order to ensure that it can fulfil the varying language needs of service users, the Linguistics Service therefore maintains continuous recruitment processes that can be tailored to specific language needs when necessary; recent examples of this include recruitment drives for interpreters offering Vietnamese and Kurdish (Operations Manager, 2019) and ongoing recruitment focused on certain areas of the city or on certain educational institutions (Operations Manager, 2019). While the standard programme of training for interpreters, which is provided in the form of an induction that includes practice adopted in line with *Good Practice Guidelines* (STICF, 2004), which was discussed in section 4.2.1, was characterised as limited, further training opportunities can be accessed through the local authority (Operations Manager, 2019).

The key resources that were considered relevant to equalities obligations and good practice by the Linguistics Service are the guidelines based on the *Good Practice Guidelines* (STICF, 2004) and GCC's own equality and inclusion policies (Operations Manager, 2019), which were discussed in sections 4.2.1 and 4.2.4.2 respectively. Awareness of the service is reportedly widespread across the local authority's various departments and the process of arranging language support is, according to the research interview, well understood, including more straightforward instances such as notifying service users of appointments (Operations Manager, 2019).

The GCHSCP website includes a webpage that provides information about the GCC Linguistics Service. The webpage (GCHSCP, 2018) is still titled "Cordia Linguistics", although, since the Operations Manager (2019) reported little change to service delivery or operational details following the transition and, given that the information is provided on the GCHSCP website, its contents remain relevant to this discussion of online provision. The GCC website does feature a webpage titled "Cordia" (GCC, 2018b) that notifies users about the transition, which is described as facilitating the continued delivery of "an efficient and

effective operating model and best value services for the city” while maintaining both the previous nature of services and the staff (GCC, 2018b).

A “Service summary” (GCHSCP, 2019) is available, in English, detailing the language-related provision made available to GCC departments and their service users, including face-to-face interpreting, telephone interpreting, the translation of documents and training for interpreters, across a range of settings from healthcare to industrial tribunals to court cases. The webpage also emphasises the skills and experiences that the interpreters and translators working with Cordia Linguistics¹²⁵ have, as well as the service’s participation in the Scottish Translation, Interpretation and Communication Forum (STICF) and its adherence to strict standards (GCHSCP, 2019).

The practical information concerning service demand and the distribution of interpreting and translation requests between local authority departments that is available on this webpage supports the figures presented in the research interview carried out with GCC’s Linguistics Service (Operations Manager, 2019). Logistical details and contact details for the Linguistics Service are also provided on this webpage in order to signpost users to the required support (GCHSCP, 2019).

A further webpage (GCC, [2016c]) outlines GCC’s equalities aims and obligations, in addition to several reporting and monitoring mechanisms to which it is committed, such as the *Equality Progress Report 2019* (GCC, 2019a) that was discussed in section 4.2.4.2 of this chapter. Hyperlinks to significant resources, for example the aforementioned report and the *Equality Outcomes 2017 to 2021* (GCC, 2017), are also featured on the webpage. In addition, information pertaining to the *Equality Act 2010* is included, including a list of hyperlinks to nine written documents, each focused on one of the ‘protected characteristics’¹²⁶ established by the legislation in question. The document that addresses ‘race’ highlights that “persistent race inequalities in Scotland” have been found in research, including lower awareness of local authority services among members of ethnic minority communities who have recently arrived in Scotland and barriers that hinder access to those services for

¹²⁵ At that time, interpreting and translation for GCC was delivered by the Cordia Linguistics.

¹²⁶ The *Equality Act 2010* identifies the following as protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

established members of ethnic minority communities (GCC, [2016c]). Language-related issues are not explicitly referenced, perhaps unsurprising, given the framing of the legislation through which equalities issues are understood, but are likely to be relevant in some cases to lack of awareness and obstacles that can hinder access to public services among ethnic minority communities. As mentioned previously, it is noteworthy that NHS GGC's website ([2017], 2019d) explicitly acknowledges that language barriers can hinder equal access to services, thus aligning language with racial (in)equality, which supports the conclusion that language is considered to be implicitly protected under the *Equality Act 2010*.

4.3.4 Language-related practice: Scottish education services

During the interviews, several examples of negative beliefs regarding allochthonous languages influencing choices by service providers and, when internalised, by allochthonous language speakers themselves, were raised. EAL staff in Edinburgh and Glasgow commented that it is not uncommon for allochthonous language speaking families, when enrolling their children for school, to inaccurately record English as their children's L1, through fear that their children's school enrolment or attainment might be compromised if they report little or no English language competence (Walker, 2017; Depute Head Teacher, 2017).

Although there is now more awareness of the benefits of multilingualism, at least at the cognitive level, misinformation persists. Families may still be advised to speak English (in the case of English-speaking states such as the UK) rather than allochthonous languages at home, due to a "common misconception" that the use of allochthonous languages at home represents an educational and socioeconomic disadvantage to children (Sorace, 2013). During the interviews that formed part of this research, there were several references to such misinformation, and sometimes the conflicting advice, received by families from various health and social care services with which they had contact, such as social workers and health visitors, regarding language usage in the home (Sorace, 2017). Such advice reinforces negative perceptions of allochthonous language usage and may influence language choices within the family (Akoğlu and Yağmur, 2016).

In addition to the issues discussed above, EAL services are affected by resource constraints beyond the financial restrictions mentioned in section 4.1.2.2: staff numbers have also fallen (Educational Institute of Scotland (EIS), 2019: 13). EAL services are responding to higher demand with reduced staff numbers, which leads to greater caseloads (EIS, 2019: 13; Scott, 2017). Even where legal and policy frameworks are understood, there are often insufficient resources available to implement them, as well as issues faced in disseminating relevant information (Scott, 2017). EAL teams might, for instance, deliver training to schools' equalities coordinators that incorporates material about legislative and policy obligations,¹²⁷ but such training may not be disseminated within school communities themselves (Scott, 2017).

Efforts have been made in Edinburgh and Glasgow to improve the situation, lessen the impact of resource constraints and increase knowledge of issues related to EAL provision and linguistic diversity, inside and outside the classroom. In recent years, the EAL service in Edinburgh has been restructured and has also launched pilot projects focused on training and capacity-building in schools, through direct and intensified work with teachers, in order to evaluate and improve teaching practices related to linguistic diversity and EAL needs in the classroom (Depute Head Teacher, 2017). In Glasgow, strategy changes have been implemented in order to cope with time and resource related constraints: the EAL service shifted to a greater reliance on peripatetic teachers (Walker, 2017) so that staff members provided direct, in-class support to EAL across a larger area and at a greater number of schools. Even where services have been able to make changes in order to mitigate the impact of insufficient resources, however, there is nevertheless likely to be an impact on the pupils who receive EAL support. Across the UK, the increased numbers of EAL pupils, and therefore of schools requiring EAL support, has resulted in larger caseloads for EAL staff, which exacerbates time constraints and hinders the provision of sufficient support for schools and for individual pupils, which has a negative impact on pupils' experiences (NALDIC, 2011b: 3–4; Scott, 2017). Recent research carried out in Scotland identified a range of resource constraints that pose challenges for EAL services and have negative implications for pupils, due to difficulties in referring them for the support they need (EIS, 2019).

¹²⁷ Such as the *ASL Act* and the international standards discussed in section 3.3.

EAL services are not encountering merely practical challenges in service delivery, however; there are additionally a number of complex attitudinal constraints connected to the sociolinguistic context of Scotland and, more widely, of the UK. It has been argued that, when allochthonous language teaching is primarily the responsibility of community-led initiatives and receives little state support, the perceived low status of those languages is reinforced (Sorace, 2013). In Scotland, complementary schools¹²⁸ are a significant source of allochthonous language teaching and cultural education for many language communities, offering opportunities for the intergenerational transmission of allochthonous languages (Wang, 2011). Particularly given the aforementioned limitations of language teaching with regard to allochthonous languages, such programmes can be of substantial value to language maintenance. Complementary schools are often community-led, with teaching taking place during the weekend or after school hours and provided by volunteer parents, or “parent teachers” (Wang, 2011: 2–3). This reliance on parents to deliver teaching can be problematic because, in many cases, the parents who volunteer do not have teaching qualifications or experience and may not be familiar with pedagogical traditions (Wang, 2011).

Additional challenges to complementary school provision in Scotland include those posed by practical concerns related to funding and logistics. Complementary schools vary significantly in terms of size, organisation and available resources; Hancock (2017; Hancock and Hancock, 2018) found that complementary schools ranged in size from a total of 30 pupils to close to 1,000 students. It has been noted that the context in which complementary schools operate has shifted over time, according to different generations of allochthonous language speakers, as communities have become established in Scotland (Hancock, 2017) and language needs have changed. McPake’s (2006) mapping exercise found that only one Polish language complementary school had been established in Scotland, whereas by 2018, there were 18 schools teaching Polish (Hancock and Hancock, 2018); however, a number of other complementary schools had closed by that time (Hancock, 2017). It is difficult to gather comprehensive information about complementary school provision in Scotland because, depending on publicity preferences, resources and pupil numbers, information

¹²⁸ Complementary education is “educational provision organised by communities, independently of the local authority” (McPake, 2006: 5).

about them may not be easily accessible using online resources (Hancock and Hancock, 2018). There also appears to be no formal mechanism in place for the collection or dissemination of relevant information. A study of complementary school provision in Scotland identified 62 complementary schools or classes providing education in 18 allochthonous languages, including Polish, Cantonese, Mandarin, Arabic, Urdu, Punjabi, Hebrew, Hindi, Russian, Greek, Japanese, Farsi, French, Spanish, German, Portuguese, Italian and Dutch, but with seemingly no provision for languages with notable speaker communities, such as Romanian, Lithuanian, Bengali, Latvian, Malayalam, Hungarian and Slovak (Hancock and Hancock, 2018). This potentially raises equalities concerns, because different speaker communities have access to differing levels of educational provision.

Since public and complementary schools tend to operate separately, access to teaching space for complementary schools is not always straightforward. Although some utilise public school premises outside of regular school hours, others are based at religious centres, or are affiliated with consulates or “heritage” countries that wish to support language maintenance, or are organised principally by families and communities themselves, using community centre spaces, for example (Hancock, 2017). Furthermore, complementary schools that did use public school premises can face other practical obstacles, such as not having access to the IT equipment (Hancock, 2017). Similarly, financial support for complementary schools can be provided from a range of sources, including consulates, restricted grants from local authorities and community fundraising; as a result, resources can be limited and complementary school provision “patchy” (Hancock, 2014a: 177). Hancock and Hancock (2018) found that, while there have been shifts in the linguistic make-up of complementary schooling in Scotland in line with shifts in speaker communities and the resulting language needs, overall there has been a decrease in provision, in addition to a lack of provision for asylum seekers and refugees.

Beyond funding and logistics, complementary school provision may also be hindered by a lack of awareness of the policy and strategy that guides public school curricula. In the course of their research into complementary schools in Scotland, Hancock and Hancock (2018) found that in many cases, there was little awareness of the 1+2 Approach and additionally that links with local authorities were limited: non-existent, in some cases, and reported as inconclusive or unproductive, in others. Hancock (2017) found that 16 out of 21

complementary schools that participated in his research reported having had no meetings with local authorities pertaining to the 1+2 Approach and that several of those that had done so described those meetings as unproductive, while 19 of those 21 did not have any links with public schools in terms of offering allochthonous language learning opportunities, although a number of those respondents suggested that developing such provision was of interest.

The apparent separation between complementary and mainstream education seems to be a missed opportunity, given the lack of provision for many significant allochthonous languages in public school curricula, and potential opportunities represented by the language teaching offered by complementary schools. Better collaboration might contribute to more diverse and inclusive language learning opportunities in public schools. Additionally, stronger relationships between complementary and public schools may benefit the former, facilitating access to teaching and learning spaces and resources, as well as promoting awareness of allochthonous languages and their value to public schools.

Although the lack of support from and collaboration with the state does potentially result in certain limitations for complementary schools, there are benefits to their tendency to be organised independently, as it gives them autonomy. Communities are able to retain ownership of cultural and linguistic education and to offer “safe spaces” in which learners can develop their language skills and negotiate their identities (Hancock, 2014a: 178; Creese et al, 2006). As such, they can also offer a space removed from discrimination encountered by members of the community in question (Hancock, 2017). The separation from public schools is potentially also beneficial because the often community-led, less formal nature of complementary schools allows students to challenge the adopted teaching strategies and participate in a negotiation of the pedagogy in the classroom (Hancock, 2012; 2014a; 2017). Nevertheless, the marginalisation of allochthonous languages in the education system, the difficulty in developing language skills through part-time provision (Cummins, 2000), and the resulting development of complementary schools (Wei, 2006), must be acknowledged.

Awareness of the equalities obligations that do exist in law and policy, described in Chapter Three, is often limited. While there are legal frameworks and local strategies in place that have the potential to develop more inclusive approaches to language education and multilingualism in Scotland, there are, as also discussed in Chapter Three, factors that limit

their impact, and for the most part a relatively conventional, non-inclusive tradition of language teaching has continued in education. Several allochthonous languages with significant speaker numbers in Scotland remain largely underrepresented in public school language teaching choices, particularly in terms of secondary school certification, and in many cases allochthonous language speaker communities must organise their own linguistic and cultural education, taking primary responsibility for encouraging language maintenance, with little collaboration with local authorities or public schools.

4.3.4.1 Education services in Edinburgh

Education services are delivered by local authorities and numerous webpages on the CEC's website consider a variety of issues related to schooling and education. The range of topics addressed includes, but is not limited to, information for professionals, adult education, parental engagement and signposting to the Education Advice and Complaints Service (CEC, [2019g]). Information is also provided, in both Gaelic and English, about Gaelic medium education and about support that is available to pupils who have additional support needs. When searching for "language" on the CEC website, two suggested options are offered: "English as an additional language in schools" and "Language support in schools", yet it should be noted that both options lead to the same webpage, "Additional support for learning" (CEC, [2019f]), which will be discussed below. Another (perhaps temporary) issue appears to exist when selecting the "ASL Service" link that is provided on the "Information for Professionals" (CEC, [2019b]) webpage; an error message notifies users that the website "aslserviceedinburgh.com" cannot be reached.

The CEC's website does, however, provide information for education professionals concerning Continuing Professional Development (CPD) courses that are available to them, and a search of the directory of offered courses reveals many that are relevant to language, both with regard to EAL and to language education in line with the Scottish Government's 1+2 Approach (CEC, [2019i]). While the CEC is responsible for public schools in the area, the webpage does state that the CPD courses available are also open to "partner nurseries, independent schools and others working with children and families" (CEC, [2019i]). The fact

that such courses are currently available to those working with children and families in the Scottish education system is significant.

From the “Information for Professionals” directory (CEC, [2019b]), users can find details of legislation and policies relating to ASL, including a hyperlink to the 2010 *Code of Practice* (Scottish Government, 2010b). Information about requirements for individual educational establishments is also provided; each establishment in Edinburgh has an ASL policy that summarises what is expected from staff in order to identify, assess and fulfil pupils’ additional support needs, therefore facilitating support for pupils’ behavioural, educational and social welfare needs (CEC, [2010a]). The four pathways to support, which form part of the structured framework for supporting pupil with additional support needs, are briefly outlined, while users are directed to a document published by the CEC concerning the *ASL Act* and the local authority’s related policy, *Supporting children and young people with additional support needs*,¹²⁹ for further information (CEC, [2010a]).

EAL provision in schools is, as previously mentioned, the responsibility of the CEC and is situated within the domain of Additional Support for Learning (ASL). The CEC website features a webpage that informs users about support for pupils with additional support needs and that includes having English as an additional language on its list of reasons why pupils may require additional support (CEC, [2019f]). An additional support need is defined on the webpage as any factor that represents a “barrier to learning” and the fact that education services have a legal obligation to support pupils with any such needs is noted (CEC, [2019f]). Users are advised to contact the relevant school in order to access its ASL services and a link to the *In On The Act* (CEC, 2019e) document, of which the focus is support for children and young people with additional support needs, is also provided (CEC, [2019f]). Limited information about the various processes through which ASL support can be obtained is also included on the webpage, informing the parents of children with additional support needs that pre-school age children will be referred to the ASL service by a health visitor or medical professional following a consultation with their parents, while school age children will be referred by their school (CEC, [2019f]).

¹²⁹ This document was discussed in section 4.1.4.1 of this chapter.

4.3.4.2 Education services in Glasgow

As in Edinburgh, the EAL service in Glasgow is situated under the umbrella of ASL provision and, as part of the “comprehensive Support Service structure” established by Glasgow Education Services, information about EAL provision in Glasgow’s schools is signposted, in English, on the “Additional Support Services” (GCC, [2019b]) webpage. The details given about EAL provision are fairly limited: a summary of EAL support is provided, in addition to an explanation of who is eligible to receive EAL assistance in education (children and young people who have either recently arrived in Glasgow and are beginning to learn English, or who have always lived in Glasgow and do not use English at home), and notification that CPD opportunities are available to class/subject teachers, school staff and EAL staff (GCC, [2019c]). The webpage explains that EAL staff support pupils throughout their development of English language competence, facilitating access to public school curricula and academic attainment for EAL pupils (GCC, [2019c]). The GCC website also features information relating to support for asylum seekers and on one particular webpage, the guidance available includes a brief passage on EAL provision, explaining that asylum seeking families in Glasgow should expect to receive a letter from the EAL service with the details of the local schools for their children and noting that an interpreter will be provided if needed (GCC, [2019e]). Both of the webpages mentioned above provide contact details for Glasgow’s EAL service in order to facilitate access to provision, although there is no obvious indication of translated materials in either case, or any mention of interpreting provision on the “English as an Additional Language Service (EAL)” (GCC, [2019c]) webpage, which could arguably limit equal access in the case of parents or guardians who are not themselves proficient in English.

Another relevant source of online provision is GCC’s “EAL Service/GDSS/International Education” (GCC, [2019g]) website, which contains sections for its EAL service, Glasgow Dyslexia Support Service (GDSS) and International Education Service. The part of the website that is focused on the EAL service includes the service’s contact details and information about its staff, in addition to separate webpages for EAL News, EAL Resources, related videos, a photo gallery and podcasts (GCC, [2019h]). While the range of content offered is significant, the website does not appear to be kept up to date, as multiple features are

dated from 2016, while the “Welcome to Our Service” webpage is empty except for the word “Welcome” (GCC, [2019i]). One notable aspect of the website, however, is that there is an option to translate each webpage into another language: 104 world languages are available. The quality of the translation is uncertain and the presence of a Google logo suggests the possibility that it may use Google Translate, which has been recognised even by public service providers themselves as perhaps useful but also limited in terms of accuracy: “Although online translators can accurately translate individual words and phrases, they may not always be able to interpret the meaning of larger or more complex pieces of information” (NHS, 2019). The fact that translation options are available to users of the EAL website nevertheless indicates a commitment to facilitating access and inclusion for those whose preferred language is not English and compares favourably to much of the online provision discussed here.

With regard to language education more widely, it is worth noting that the webpage titled “Curriculum” (GCC, [2019d]) states that the curriculum adopted in education “reflects what we value and what we seek for our children and young people”, which, given the previously discussed lack of diversity in language teaching, arguably supports the idea that languages routinely excluded from the curriculum are perceived as having a lower value than those that are traditionally taught. The same webpage also notes that the objective of the school curriculum is to allow all of Glasgow’s young people to “flourish as individuals, reach high levels of achievement, and make valuable contributions to society” (GCC, [2019d]). In relation to language teaching and learning, the exclusion of significant languages that are spoken within school communities from curricula, in addition to the educational, cultural and economic limitations placed on pupils by Scotland’s monolingual culture (Hancock, 2014a), could be argued to hinder this goal.

4.4 Realities of service delivery: common themes, disparities and implications

4.4.1 Cross-service perspective

The preceding sections of Chapter Four discussed the findings of this research with regard to language provision in Scottish public services. Although the earlier parts of this chapter were

divided into three principal sections, addressing common themes, policy and strategy and service delivery, including online provision, for each of the services in question, a range of overarching themes emerge from the findings. This section of the thesis will bring together the discussion of public sector language provision in order to outline the cross-service perspective, assess the implications of the primary findings and highlight possible improvements to language support in public services.

4.4.1.1 Existing legal frameworks and scope for expansion

Language tends to be overlooked in UK domestic law (McLeod, 2008) and, as highlighted in Chapter Three, there are few clear legal obligations regarding public sector provision through the medium of allochthonous languages. Nevertheless, despite the relatively limited legal framework that currently exists, the public bodies evaluated in this thesis all seek to meet the practical language needs of allochthonous language speakers using their services and appear to consider such support to be an aspect of their broader duties. Indeed, the service providers discussed in Chapter Four tend to approach language provision as a way to meet their wider equalities requirements.

There were numerous examples given throughout Chapter Four of this approach: for instance, in the field of criminal justice, the legislation, and the protected characteristics that it lists, was pertinent to several outcomes concerning access and equality that were identified in the *Equalities Action Plan* (SCS, 2014). The use of telephone interpreting was also identified as an example of good practice and of “positive action” (SCS, [2011]: 29) for those with protected characteristics, in terms of inclusion. In healthcare, the draft *Interpreting and Translation - National Policy* (NHS Scotland, 2018b; NUBSLI, 2019), which recognised both the legislative duty to provide language support and its role promoting equal access to healthcare, and specifically cited the *Equality Act 2010* in its statement that those whose L1 is not English “must not be disadvantaged in terms of access to, and quality of healthcare received (Equality Act 2010)” (NHS Scotland, 2018b: 5).

Several of NHS GGC’s policy and strategy documents drew a link between the *Equality Act 2010* and language provision. Its *Interpreting Policy* implicitly made this connection with the statement that there was a legal obligation to “provide interpreting and communication

support” and that the legislation in question “places a legal duty on public authorities to provide barrier free access to those with Protected Characteristics, this includes race” (NHS GGC, 2012b: 4). The *Meeting the Requirements of Equality Legislation* document (NHS GGC, [2015a]) included equality outcomes that referenced the protected characteristics listed in the *Equality Act 2010*.

The *Putting equality at the heart of Glasgow City HSCP* document (GCHSCP, [2016]) included language-related material in its first listed “Public Sector Equality Duty”, which focused on eliminating “unlawful discrimination” (GCHSCP, [2016]: [9]). *The Equality Act 2010: A Guide for Managers* went so far as to state that healthcare services with consistently high rates of non-attendance “may be indicative of issues with legislative compliance and therefore risk”, noting that if, for example, appointment details were provided only in written form and in small print English, this may amount to “indirectly discriminating against specific patient cohorts” (NHS GGC, [2014b]: [10]). This shows awareness of possible legal consequences and relates inadequate (or non-existent) language provision not only with discrimination, but also with possible non-compliance with legislation.

With regard to Edinburgh, the CEC’s *Equality, Diversity, and Rights Framework 2017-21* ([2016c]) was characterised on the local authority’s website as outlining how the obligations established by the *Equality Act 2010* would be met, and referenced the ITS in relation to service users who share protected characteristics. The *Mainstreaming the Equality Duty and Equality Outcomes Progress Report* (CEC, 2018a) also mentioned language-related commitments within a wider progress report regarding the *Equality Act 2010*. Furthermore, the legislation was highlighted during the research interview that was conducted with the CEC’s ITS Manager (2017), who identified it as the law that was most relevant to the ITS.

In addition to such references to the *Equality Act 2010*, service providers repeatedly acknowledged that language barriers represent an obstacle to equal access;¹³⁰ such statements implicitly connect language provision with equalities obligations. In addition, service providers also acknowledge the connection between language and racial and ethnic identity (NHS GGC [2015]: 22, 26), a legal principle established by *Mandla v Dowell Lee et al*

¹³⁰ See, for instance: STICF, 2004; NHS Health Scotland, 2009a; NHS Lothian, 2011a; Scottish Government, 2012a, 2015; GCC, 2013, 2015; ITS Manager, 2017; NHS 24, 2019c; GCHSCP, [2015]; NHS GGC [2010a], [2015], [2017], 2019d, 2019e, [2019q].

([1983] AC 548). NHS GGC webpages such as “How we are addressing race issues” ([2017]) and “Equality and Diversity” (2019d) explicitly recognised that language barriers can impede equal access to services. More widely, NHS Scotland’s (2018a) optional “Resource for GP Practices” included language-related details in order to facilitate provision and was, the webpage claimed, designed to meet the requirements of various laws, including the *Equality Act 2010*.

Despite the absence of language itself as a protected characteristic in the *Equality Act 2010*, many of the service providers seem to believe that they are under legal obligations to support allochthonous language speakers because they are indirectly protected under the ‘race’ category. In practice, at the local level, language is perceived to be covered by virtue of the definition of ‘racial group’. As such, service providers show a broad interpretation of legal obligations that is inclusive of language, even where language is not explicitly addressed in the legislation itself. Such decisions at the local level arguably signify that service providers consider the needs of allochthonous language speakers to be as important as those of other groups protected under anti-discrimination law and as a result have, in practice, acted according to a more inclusive interpretation of that legislation than its text itself demands.

Nevertheless, the fact that language is not explicitly protected under the *Equality Act 2010* does leave the scope of provision within the discretion of service providers. Allochthonous language speakers are considered to have an entitlement to communication support, but they do not, at present, have a clear legislative right to this provision, which may, despite the inclusive strategies found in this research, hinder inclusion and equality, and perhaps also consistency in application. This perhaps suggests that a change to the legislation in its current form is necessary; in practice, ensuring equal access for allochthonous language speakers appears to be considered to be a legal equalities obligation, but this position would be strengthened if language were legally recognised as a protected characteristic under one of the most significant equalities laws in the UK. Were there a legal framework that explicitly extended protection to language, service providers might be more effectively supported in their efforts to meet the needs of allochthonous language speakers’ needs and, indeed, it may offer scope for the improvement of existing provision.

4.4.1.2 Scottish and cross-service standards

Aside from more general equalities provisions, few specific rights to multilingual provision within the public sector exist and, as a result, there is a lack of coherent, standardised approach to language policy at the Scottish level. Although this research found numerous examples of good practice and rather high levels of awareness among service providers of language needs, the lack of standardisation and cross-service strategy allows for relatively ad hoc and inconsistent provision, vulnerable to practical constraints such as the resource limitations experienced by many public services. Public service providers appear to have developed strategies that are primarily practice based, offering language support in response to the practical language needs of their service users at the local level. Although there is some evidence of the sharing of good practice, such as NHS Lothian's establishment of its own in-house interpreting and translation service, in line with the NHS GGC model, there has been little sign of coherent, national or sector-wide frameworks being implemented, such as common approaches or collaboration between NHS Boards or local authorities in both cities.

There have been indications in recent years that more cross-service good practice sharing has been undertaken and that more cohesive guidelines have been produced. As discussed in sections 4.2.1 and 4.2.3.1, national bodies such as the STICF (2004) and NHS Scotland (2011) have published documents that established guidelines and strategies relevant to public services across Scotland, or across particular sectors, such as healthcare. Local authorities seem to have developed fewer overarching policies, although it should be noted that COSLA has produced reports and guidelines, in addition to holding networking events, relevant to subjects such as ESOL provision (COSLA, 2015b, 2018), inclusion (COSLA, 2015a) and the 1+2 Approach (COSLA, 2016), as well as participating in the development of the *Refugee Integration Strategy, 2018-2022* (Scottish Government, 2018c). As was mentioned in section 4.2.3.1, a draft of a national policy document was produced by NHS Scotland (2018b; NUBSLI, 2019), which noted the local approach to policy development and the variety of models across Scottish NHS Boards. Perhaps this is indicative of further movement towards more cooperative policy approaches regarding language provision; it will be interesting to see whether more national and cross-service strategies are implemented in

future.

4.4.1.3 Common themes and inconsistent approaches

In evaluating language provision in the selected services, a range of themes were found – both common strategies and discrepancies. It is important to recognise both and to evaluate the implications for public sector language provision, particularly with a view to recognising any potential improvements that could be made. Both common approaches and inconsistencies may provide insight into how provision could be expanded. This section will first discuss some shared approaches that were identified during the course of this research, before addressing notable inconsistencies in provision between services.

There was certainly a notable degree of consistency across services in particular aspects of language provision. In most cases, for example, language support was mediated through the engagement of interpreters and translators, rather than other potential sources such as bilingual, front-line staff. Caution was advised in relation to the potential use of the latter as interpreters by several¹³¹ service providers (NHS Health Scotland, 2008; NHS Scotland, 2018b) and, in the context of clinical settings, it was characterised as “unethical and unprofessional” (NHS Health Scotland, 2008: 21). Several service providers additionally advised against family members providing interpreting (STICF, 2004; NHS Health Scotland, 2008; NHS Lothian, 2010; NHS GGC, 2012b, [2010a]; Stewart, 2017; Jaouen, 2018).

In contexts in which the accuracy of interpretation and translation is of particular importance, such as in the criminal justice system and in healthcare settings, it was specified by many service providers that interpreters and translators should ideally have some form of accreditation; the DPSI was explicitly mentioned in several cases (STICF, 2004; NHS Health Scotland, 2008; Skills for Justice, 2013; ITS Manager, 2017; Stewart, 2017; Jaouen, 2018; Zduniak, 2018; Operations Manager, 2019). The degree to which such a qualification was considered mandatory varied slightly and it would presumably be beneficial to standardise this requirement across services and areas. This would allow for consistency in recruitment practices and in the quality of interpretation, both of which would be particularly

¹³¹ See sections 4.1.2.3 and 4.2.3.1, for example.

advantageous since service providers in similar geographical areas often draw from the same pools of interpreters (ITS Manager, 2017; Zduniak, 2018).

Another theme that emerged in the interviews undertaken is that multilingual service provision at the local level must be able to respond to changes in demand; in demographics, in operational structures and in available resources. Provision had in many ways developed over time according to the practical needs of service users and therefore it was important that it was adapted when those needs change. The role of service users is significant and to some extent shapes multilingual services. While the service providers discussed in Chapter Four monitored access to language support in order to record service demand, interpreting and translation provision could be facilitated by the consistent recording of service users' preferred language(s) at the initial point of contact, to gain an insight into language needs and enable service providers to arrange immediate language support where needed. Exploring service users' perspectives and taking them into account when developing strategy and practice would also enable service providers to better meet their needs, particularly in relation to issues on which a monolingual mentality¹³² may be a hindrance to delivering user-focused provision. Policy and practice are developed, after all, in the context of a largely monolingual society and persistently monolingual mentality (Edwards, 2001; McLeod, 2008; Hancock, 2014a), against the backdrop of monolingual UK policy objectives (Wright, 2016) and therefore, even when there is awareness of the experiences and needs of allochthonous language speakers, there may be issues due to a lack of lived experience or unconscious bias on the part of decision-makers. For example, service users' preferences with regard to sources of interpreting (whether it is mediated through professional interpreters or provided by trained frontline staff, for instance) could be valuable in determining future provision, and, over time, increased engagement with service users (in addition to any changes made in light of the aforementioned example) could potentially lessen the underrepresentation of BME communities in public services (CoE, 2012). Prioritising service users' needs and considering their experiences could improve provision and, as will be discussed in Chapter Five, is one area of potential research that could be undertaken in the future.

¹³² To be discussed further in section 4.4.1.6.

It should be noted that there are a range of factors that may create disparities among the allochthonous language speakers being supported through the language support services that are evaluated in this research. While language provision in public services is connected to the principle of equal access and necessarily engages equalities issues, it is important to recognise that the service users who use the interpreting and translation services discussed in this research are not a homogenous group and that even within individual language communities, there exists a wide range of circumstances and experiences. Such disparities between and within language communities influence the inequalities that speakers may experience and therefore impact social, cultural and economic inclusion. For example, older people, women, refugees and asylum seekers and members of BME communities can all be disproportionately disadvantaged by state language requirements (which can allow immigrants to obtain more secure residency statuses in the UK, therefore facilitating greater socio-economic inclusion) and lack of access to formal education (MIPEX, 2015). The barriers that may be faced in these contexts risk furthering exclusion; in addition to potentially hindering English language learning and therefore the likelihood of being eligible for more secure legal statuses (as well as the social rights and benefits that accompany them), access to socio-economic opportunities may be restricted. The Scottish Government (2013: 54) recognised that for refugees and asylum seekers, for instance, “[t]here is also evidenced need for additional support to achieve the English language skills required for successful integration into Scotland’s communities and to pass the UK citizenship test”, and that women may face additional barriers in accessing English language teaching due to practical challenges such as caring responsibilities (Refugee Women’s Strategy Group, 2011, cited in Scottish Government, 2013).

In the context of this research, for those who have limited English language proficiency and/or language learning opportunities, engagement with public services may be more challenging, and language provision will be required in order to facilitate equal access. Access to that language support and, indeed, awareness of entitlement to it, among members of vulnerable groups should therefore be addressed. Several service providers noted language needs among asylum seekers and refugees (ITS Manager, 2017; GGC Operations Manager, 2019) and others considered in this thesis recognised, in the documents evaluated in section 4.2, the needs of BME communities and refugees and

asylum seekers, for example: highlighting good practice (NHS Health Scotland, 2009a) and the importance of raising awareness of interpreting provision and distributing translated documents among those groups (NHS GGC, [2015a]; GCC, 2017; Stewart, 2017). If equality and inclusion are truly to be promoted, service providers should endeavour to ensure that such groups are aware of and able to access the support they need.

It was common among the service providers included in this research to engage interpreters from external agencies when necessary, as described in sections 4.2.2, 4.2.3.1, 4.2.3.2, 4.2.4.1, 4.2.4.2 (ITS Manager, 2017; Stewart, 2017; Jaouen, 2018; Zduniak, 2018; Operations Manager, 2019). Several interview participants acknowledged challenges that could be faced when using interpreters from external suppliers, noting for example that quality standards may differ from those maintained by in-house services and that interpreters from agencies may not meet certification requirements (ITS Manager, 2017; Jaouen, 2018; Operations Manager, 2019). Additionally, the need for training and support to be made available by interpreting agencies was raised, in relation to the nature of public service provision and the potentially difficult issues that may be encountered by interpreters (ITS Manager, 2017; Jaouen, 2018). Given that engaging external interpreting agencies in order to meet demand was common across services, it appears that the increased standardisation of interpreting quality, required certification and support available to interpreters working for agencies would be beneficial.

Additionally, all of the service providers discussed in Chapter Four provided information on their websites about the language provision available to service users. The extent of this varied: some websites included information concerning interpreting and translation policies and practices, while others featured less detail but signposted policy documents, and most explained how to access language support. Nevertheless, in many cases, this information was available only in English, or was only available in allochthonous languages upon request, which to some extent frustrates established policies (GCC, [2019c]; GCHSCP, [2015]; Jaouen, 2018; NHS GGC, 2019a). One NHS GGC ([2019o]) webpage states, for example, that every new publication, and each existing document that is reviewed, should be made available in the five most requested allochthonous languages each year, which is a notable strategy, although the webpage did not provide these translations.

There were several NHS GGC webpages on which hyperlinks to statements in commonly requested allochthonous languages about accessing full translations were provided, however, in the form of document inserts (NHS GGC, [2019o]) and word and picture signposting (NHS GGC, [2019p]). This is one example of good practice that could be adopted by other service providers. Several service providers referred to and utilised visual resources, such as the “Happy to Translate” icon (Dundas, 2013; GCC, 2015; CEC, 2019e), while others committed to its more consistent usage (CEC, [2016c], 2018b), and language charts (Ng, 2013; McKelvey, 2013; Jaouen, 2018; NHS GGC, 2019l), which are notable as they are more inclusive and accessible methods of raising awareness of language support. The general approach across services, however, appears to be that translations into allochthonous languages are provided on an ad hoc basis according to requests and, as noted in the sub-sections of 4.3, the availability of written documents translated into allochthonous languages is seemingly patchy (Scottish Executive, 2006a; NHS Lothian, 2011d; GCC, [2016b]; SCTS, [2019b], [2019c], [2019d]), when they are available at all.

The current ad hoc approach – and the prevalence of signposting in English rather than in allochthonous languages themselves – seems to be a missed opportunity for inclusion. While of course resource constraints may be a factor, this does appear to be an area in which greater cross-service collaboration could improve provision. Resources vary between services and across the research setting, and such discrepancies do suggest that there is scope to improve and standardise provision through increased cooperation between service providers, as well as the development of more rigorous obligations and guidelines.

4.4.1.4 Opportunities for greater cross-service collaboration

While it is of course important to recognise the variations in demographics and service demand between different areas, and the fact that these can change over time, the lack of collaboration between services seems to be a missed opportunity to share resources and enhance problem-solving. As can be seen from the discussion throughout Chapter Four, the public services evaluated in this research face several similar challenges (such as insufficient numbers of interpreters and difficulties in sourcing interpreters for less commonly required languages), which suggests that more coordinated approaches could be beneficial.

Additionally, during the research interview pertaining to NHS GGC it was claimed that, while different NHS Boards may operate slightly differently, there is a shared overall ethos and that the NHS GGC service remains in communication with the equalities teams of other Scottish NHS Boards (Stewart, 2017). Even where operational differences exist, there is seemingly potential for cooperation. Furthermore, as was discussed in section 4.4.1.3, similar inconsistencies and gaps exist across services and, although this could allow for greater cross-service collaboration and the sharing of good practice and resources, provision does appear to remain relatively distinct.

As was shown in the preceding section, this is true across the public services included in this research, but a separate mention of the potential for greater inclusion within the education system should be made. Currently, the opportunities for public school pupils to learn allochthonous languages remain poor. Despite the inclusivity encouraged in the 1+2 Approach, there would of course be significant resources required in order to develop teaching in allochthonous languages, not to mention attitudinal challenges (which will be addressed in section 4.4.1.6). So far, allochthonous language learning options, particularly opportunities to gain secondary school qualifications, in public schools tend to be limited, and largely remains in the hands of complementary schools. In many cases, complementary schools operate with little public support, or with support from varied sources, such as community fundraising and limited local authority funding, operating at weekends, for example, with teaching often delivered by parents or members of the community (Wang, 2011; Hancock, 2014a) and with limited engagement with local authorities. Hancock (2017) found that these relationships, when they did exist, were in several cases characterised by complementary schools as “inconclusive or unproductive”. As was discussed in section 4.3.4, an increase in support from the state, at both national and local levels, and greater collaboration with public schools, as well as local authorities, could facilitate allochthonous language maintenance and also allow for a more extensive and inclusive approach to the teaching of allochthonous languages, not only in complementary schools but also as part of language teaching curricula in public schools.

4.4.1.5 Looking ahead: possible technological advances

Service providers could engage in resource sharing and the dissemination of good practice through the use of technology. It is worth noting, for instance, that, while in many cases the public service providers evaluated in this thesis had made a significant amount of information available online about language support, much of that information was provided only in English and therefore may not be accessible to many of the service users who require it. This is one example of limitations in the use of online resources and technology, which could potentially be improved by greater collaboration between services and the sharing of translated documents, for instance. McPake et al (2002: 36) highlighted the collaborative opportunities available for public service providers online:

It seems clear that the internet offers extensive opportunities for the sharing of information, translated materials, or ideas. It should facilitate collaboration among different organisations, enabling staff both to learn more about the work of their counterparts in other organisations and to share the work involved in making information and support more accessible to people who communicate other than through conventional forms of spoken or written English. [...] Such resources would not be difficult or expensive to set up in the UK, and would be particularly beneficial to service providers and their clients.

In the course of this research, there were several examples¹³³ of service providers utilising, or acknowledging the potential future benefits of, technological resources in order to expand provision and facilitate inclusion. As McPake et al (2002) noted, however, there is also scope for greater collaborative uses of such resources in order to resolve, or mitigate, some of the challenges faced in service delivery. Service providers could, through increased cooperation and the maximisation of online opportunities, make use of shared online networks and resources in order to disseminate good practice, collaboratively resolve challenges and minimise the time and cost constraints involved in developing more extensive translated materials, for example.

¹³³ See sections 4.2.3.2 (NHS Lothian, 2010), 4.2.4.1 (CEC, 2019d), 4.2.4.2 (GCC, 2019a), 4.2.3.3 (Stewart, 2017) and 4.2.4.2 (Operations Manager, 2019).

4.4.1.6 Attitudinal challenges encountered by service providers

An additional consideration is the attitudinal challenges that remain when it comes to multilingualism in Scotland and the UK. These were most evident in the research carried out regarding education services. As discussed in Chapter Four (particularly in sections 4.2.5.1), part of the remit of EAL services in Edinburgh and Glasgow is to work within school communities to foster positive attitudes towards linguistic diversity and towards bi/multilingualism among pupils (Depute Head Teacher, 2017; Walker, 2017). Ongoing misconceptions and prejudice regarding allochthonous languages (Creese, 2010) can negatively influence both the opinions and the language practices¹³⁴ of allochthonous language speakers (Sorace, 2013; Akoğlu and Yağmur, 2016). For instance, as highlighted in section 4.3.4, EAL services have found that allochthonous language speaking parents sometimes record their child's home languages as English on school enrolment forms, because they believe that acknowledging their allochthonous home language will disadvantage their child (Walker, 2017; Depute Head Teacher, 2017). Sorace (2013) noted that parents are still sometimes advised by public service staff to speak English with their children, as opposed to the family's allochthonous language, due to persisting negative perceptions of bilingualism and allochthonous languages, particularly for children. Such advice risks altering language practices in the home and discouraging the intergenerational transmission of allochthonous languages.

Furthermore, the results of social research such as the 2015 Scottish Social Attitudes Survey (Scottish Government, 2016c) and the Young People in Scotland Survey 2017 (Scottish Government, 2018a) revealed ongoing negative attitudes towards language learning in Scottish schools. The former survey (Scottish Government, 2016c) illustrated that hierarchical perceptions of allochthonous languages in Scotland continued to privilege Western European languages over others in the education system, while the latter (Scottish Government, 2018a) found that almost half of the Scottish pupils who participated in the research had not chosen or did not intend to choose to study a language in addition to English at school. It should be noted that, as discussed earlier in this chapter, even when national frameworks such as the 1+2 Approach do exist, negative perceptions of

¹³⁴ See footnote 11 for Spolsky and Shohamy's (2000) definition.

allochthonous languages and of EAL teaching may be internalised both by EAL pupils themselves and by the wider school community, due to language ideologies and associated implicit¹³⁵ language policies. Creese (2010: 48), for example, highlighted the fact that even in institutions that explicitly celebrate diversity, the implicit problematisation of linguistic diversity is perceived by pupils and carries serious implications.

Such issues reflect Costley's (2014: 276) argument that education policies and practices are connected to the "wider socio-political conditions of which they are a part" and Hancock and Hancock's (2018: 13) assertion that the languages promoted by the 1+2 Approach are "determined by changing ideologies mediated through political and economic considerations". The "prevailing monolingual state language policies" (Hancock, 2012: 2) and a UK policy rationale that seeks "linguistic conformity for allochthonous populations" (Wright, 2016: 246) play a role in encouraging negative perceptions of allochthonous languages (among others) and in lowering the value with which they are accorded by speakers and non-speakers alike, all of which influence both attitudes within the population and policies and strategies at other levels of governance. McPake et al (2002: 58) argued that education – both schools and lifelong learning – should be the first step in facilitating increased multilingualism, through provision for non-European allochthonous languages (and also for BSL). The "considerable value" of language skills among public sector staff was noted (McPake et al, 2002: 58) and connection was drawn between the commitments to developing language skills and to promoting social inclusion:

[i]n our view, social inclusion requires everyone to extend their communicative capacity beyond English [...] a greater commitment to developing communication skills generally follows from a commitment to social inclusion, and will have a number of benefits (McPake et al, 2002: 58).

In the context of the enduring monolingual culture present in both the UK (Edwards, 2001; McLeod, 2008) as a whole and in Scotland (Hancock, 2014a) specifically, such negative attitudes towards allochthonous languages and multilingualism are perhaps not surprising, but do hinder inclusivity. In addition to the economic and political implications (Foreman-Peck, 2007) of pedagogical norms that do not prioritise an inclusive approach to language education, allochthonous language speakers in the UK are living in a state that, Wright

¹³⁵ See footnote 109 and Kingsley (2009).

(2016) argues, discourages the maintenance of their languages. A low socioeconomic and cultural status is ascribed to particular allochthonous languages; implicitly, as outlined in this thesis, but also at times explicitly, through public discourse (Blackledge, 2004; Ruhs, 2012; Wodak and Boukala, 2015). If wider societal perceptions of allochthonous languages, and indeed, perceptions among their speakers, remain negative and are not challenged, social inclusion for these communities, and the intergenerational transmission of their languages, may be hindered. Hancock and Hancock (2018) highlighted the need to maximise language skills within the Scottish population in order to avoid further decreases in the numbers of allochthonous language teachers, bilingual support assistants and interpreters. Promoting the value of allochthonous languages and providing more opportunities to learn them would also, over time, increase multilingualism in the Scottish (and the UK) population and workforce, alleviate the underrepresentation of BME communities in the public sector (CoE, 2012) and, given the current human resource challenges with regard to interpreters, benefit service provision in the public sector.

4.4.2 Overarching conclusions

As highlighted throughout Chapter Four, through the analysis of service providers' strategy and guidance documents, online provision and discussion of language support (primarily interpreting and translation services in order to facilitate equal access, but also EAL services in Scottish schools, for example), multilingual provision in the Scottish public sector in many cases features inclusive approaches. The service providers included in this research approached language provision from an equalities perspective and, as noted in section 4.4.1.1, appear to do so as part of their perceived obligations under the *Equalities Act 2010*. This represents a broad and inclusive interpretation of the legislation, given that language is not explicitly protected by it. A more rigorous, language-related legal framework, in addition to the development of cross-service and national standards regarding language provision in the public sector, may better facilitate provision at the local level.

It should be acknowledged that the service providers considered in this thesis endeavour to meet the language needs of the populations they serve and offer a good deal of support to allochthonous language speakers. Challenges are faced, however, in delivering such

services, while inconsistencies and gaps in provision have been identified in the course of this research. In section 4.4.1, several areas in which service providers could expand and improve language provision, in addition to how state actors and national bodies could offer greater support in doing so, were discussed in detail. Furthermore, efforts to counter ongoing attitudinal challenges regarding allochthonous languages, and multilingualism more generally, may facilitate greater inclusion in an increasingly linguistically diverse society. Without the additional development of new and existing legislative and policy frameworks, however, to support current inclusive practices at the local level, strengthen equalities requirements and demand improvements at all levels of governance, it may be difficult to shift such deeply embedded ideologies.

Chapter Five: Conclusion

5.1 Implications

5.1.1 Inclusivity in equalities law

This research found that public service providers in Scotland show a significant awareness of language needs among their service users, which are mostly met through the provision of interpreting and translation, and that they respond to these needs as they arise and shift over time. A considerable body of policy and strategy developed, both at the local level by individual service providers and at the national level by bodies such as NHS Scotland and the SCTS, to establish guidance for public service providers in meeting their equalities obligations, which often included service users' language and communication needs, as noted throughout Chapter Four. As was also highlighted in Chapter Four (particularly in section 4.4), however, various challenges are faced by service providers in the course of delivering services, and gaps in provision have been identified across different sectors. The principal findings of this research, which were outlined in section 4.4, have several implications for service provision with regard to supporting allochthonous language speakers.

Beginning initially at the legislative level, Chapter Three's analysis of existing legal and policy norms that are relevant to language support in the public sector illustrates that there are few legal frameworks requiring provision for allochthonous language speakers. The primary exceptions to this are the obligations set out in the ICCPR and the ECHR regarding the necessity of providing interpretation in the criminal justice system. Supranational instruments that do address language tend to include relatively open-ended language-related provisions, in the form of anti-discrimination obligations, as in the ECHR, or rights to family life and freedom of expression and of culture,¹³⁶ or vague measures regarding education, as in Article 3 of *Directive 77/486/EEC*, for example. While there is scope for the UK to be subject to more specific and rigorous language-related legal requirements, were it,

¹³⁶ See: CoE, 1950, Article 10, paragraph 1; UN, 1966a, Article 19, paragraph 2; UN, 1966b, Article 15, subparagraph 1(a); UNHRC, 1993.

for instance, to ratify Optional Protocol 12 of the ECHR, at present, the provisions in force remain more general, with the aforementioned exception of the criminal justice system. At the UK level, the most notable piece of legislation is the *Equality Act 2010*, which does not contain any language-specific provisions. It can therefore be concluded that local service provision has developed largely without formal standards or guidance set by any supranational or UK level legislative frameworks, even if many of the service providers included in this research drew attention to the *Equality Act 2010* (see section 4.4.1.1).

As illustrated by the discussion throughout Chapter Four, however, the service providers evaluated in this research seemingly perceive language provision as an implicit requirement under the *Equality Act 2010*. As noted in sections 1.3.1 and 3.4.2.1, there is a legal basis for the inclusion of language in equalities legislation such as the *Equality Act 2010*. *Mandla v Dowell Lee et al* ([1983] AC 548) identifies language as one marker of an ‘ethnic group’, establishing a connection between ethnicity and language. Considering that the *Equality Act 2010* states that the ‘race’ characteristic includes “ethnic or national origins”, there is scope for a broader and more inclusive approach to this anti-discrimination legislation that protects language in addition to the characteristics that are listed at present. Given the fact that the *Equality Act 2010* is deemed to be so central to public service provision in terms of equalities, the inclusion of language in such a key legal framework could provide an even stronger grounding for language support in the public sector. Not only could this strengthen existing provision, but more rigorous legal obligations related to language could provide scope for developments and improvements to language provision that would give rise to more expansive and inclusive support for allochthonous language speakers engaging with public sector services.

5.1.2 Implications at the Scottish and local levels

Additionally, the introduction of language-specific legal norms at the UK level could facilitate the consolidation of language-related policy and strategy in the Scottish public sector. With a more coherent approach to language support in public services, the practice guidelines would be more consistent across services, which would aid the effective implementation of any potential language-related equalities law. Examples of national or cross-service

strategies that were discussed in Chapter Four include NHS Scotland's (2018b; NUBSLI, 2019) draft policy document, *Interpreting and Translation - National Policy*, in addition to several other, now rather outdated, documents that were evaluated in section 4.2.1 (STICF, 2004; SCC, 2005; Scottish Executive, 2006a). The development of more formal policies designed to align strategy and practice across services or geographical areas could improve the support available to allochthonous language speakers, as it would allow a standardised approach in accordance with equalities duties.

Furthermore, were legal obligations established that were explicitly related to language, public service providers would have clear and standardised requirements to fulfil and could, through greater cross-service collaboration, support each other in doing so. This could be done by establishing coherent and shared requirements for public sector interpreters with regard to certification, for example, in addition to across-the-board standards concerning the use of non-professional interpreters and the engagement of interpreters from external agencies. As mentioned in section 4.4, McPake et al (2002) noted another possible avenue of cross-service work: the possibility for cooperation between service providers using the internet to promote good practice and share resources. At present, this appears to be something of a missed opportunity as provision varies. In some cases, such as NHS GGC ([2019o], [2019p]) online provision was relatively well-developed, whereas in others, for instance the CEC, online resources are more extensive in the case of education services, (particularly information provided for professionals: see section 4.3.4.1), but limited with regard to the ITS (CEC, [2010b]).

The sharing of good practice and resources, such as templates for translated webpages, could facilitate standardised and expanded provision. As discussed in section 4.4.1.3, there is scope for the development of translation provision as well and, similarly, collaboration between service providers could assist this. Materials that have already been developed could be circulated, with adjustments made as necessary, while the standardisation of practice could be improved. Many of the service providers included in this research supply translated materials upon request, but presumably there are many cases in which commonly used documents, or at least templates, translated into often required allochthonous languages have already been produced and could be made more widely available. It may be that such resources are available within services and are simply not

accessible publicly online, but this does raise the question of whether it could be beneficial for service providers to include such materials on their websites, for example, so that allochthonous language users can easily access them. Possibly the details of documents change frequently enough that this would not be feasible, in which case, translated versions of key informative webpages would be more inclusive of service users who require language support. This would also raise awareness of the provision available which, as mentioned in section 4.4.1.3, is of particular importance among more vulnerable groups such as refugees and asylum seekers.

Resource constraints are of course relevant to such recommendations, but this may further demonstrate the potential benefit of collaboration between services and the sharing of resources. Due to demographic factors, service providers may need to focus on different allochthonous languages when prioritising provision, but there are nevertheless languages in which support is often required across services and geographical areas and, in order to promote equality, discrepancies in provision should be minimised where possible. The sharing of resources and good practice could facilitate this, and the aforementioned potential of online networks and materials in terms of expanding provision and maximising consistency is also relevant to the availability of translated information and documents on service providers' websites.

5.1.3 Attitudinal constraints

This research found that a range of attitudinal challenges persist and that, while these do not necessarily impact public sector language provision on the surface, there are more indirect and long-term implications of the monolingual culture that remains in Scotland and in the UK. Examples of such implications were highlighted in this thesis: the economic constraints placed on the UK by the lack of skills within the population in languages other than English (Foreman-Peck, 2007), the hindering of Scottish pupils educationally, culturally and economically (Hancock, 2014a), and the fact that UK policy tends to encourage linguistic conformity for allochthonous language speaking communities (Wright, 2016: 246). As was primarily discussed in relation to education, negative perceptions of allochthonous

languages can also discourage their intergenerational transmission, as well as contributing to the marginalisation of their speakers (Creese, 2010).

There are additional implications for language provision due to the lack of value accorded to language learning and to allochthonous languages other than “popular” Western European languages (Hancock, 2014a: 174), however. Given the challenges faced by many service providers related to the insufficient availability of interpreters, the promotion of allochthonous language learning in Scotland could bring longer-term benefits for language provision. While it should be noted that several healthcare providers discussed in Chapter Four highlighted ethical concerns regarding members of staff (rather than professional interpreters) providing any language support beyond initial communication and essential information-sharing, increased allochthonous language skills among public sector staff could, over time, improve support at the point of access for allochthonous language speakers.

5.2 Future challenges and recommendations

The key recommendations to arise from this thesis relate to domestic equalities legislation, inclusivity in the education system, and public sector practice at the local level. Beginning at the UK level, this research found that the public service providers evaluated considered the *Equality Act 2010* to be a cornerstone of their equalities obligations and appeared to believe that provision for allochthonous language speakers formed part of their duties under this law. Explicit protection for language under UK equalities law would, however, establish a clearer and more rigorous framework for this provision, support existing practice and promote service development and greater consistency across the public sector. The clarification of national and/or sector-wide policies and practice guidelines with regard to language provision would also facilitate consistent standards. Finally, non-discrimination provisions in international instruments which apply to the UK, such as the ICCPR and the ECHR, make explicit reference to language as a protected characteristic, and an amendment to UK equalities legislation to include language would bring domestic law into closer alignment with these international obligations.

A further recommendation relates to education in Scotland. As discussed in Chapter Four, there is scope for more inclusive approaches to language teaching and learning in Scottish public schools, and for increased collaboration between public schools and complementary schools, with the support of local authorities. The Scottish Government's 1+2 Approach to language teaching encouraged the inclusion of "community languages of pupils in schools" (Scottish Government, 2012b: 18) and at present it does not appear that the implementation of this recommendation has been effective or consistent. The development of a more inclusive approach to language teaching in Scotland could, over time, assist efforts to counter negative attitudes towards certain allochthonous languages and their speaker communities. It would furthermore expand proficiency in a larger range of allochthonous languages, which would be of benefit both culturally and economically and would, in the long term, lead to a more multilingual population and workforce. This latter point is relevant to language provision in the public sector, as higher numbers of bilingual or multilingual members of staff working in public services could facilitate communication at the initial point of contact with those services, as well as potentially expanding the pool of interpreters from which service providers can draw.

There also appears to be a notable missed opportunity with regard to the current separation between public and complementary schools and, while it may be important to maintain the cultural ownership and "safe spaces" (Creese et al, 2006; Hancock, 2014a: 178) offered by complementary schools, the sharing of resources could be of great benefit on both sides. Public schools could potentially engage the language skills and cultural knowledge of complementary school teachers and organisers in order to develop more inclusive practices within their own schools, and to expand their educational provision with regard to allochthonous languages, while complementary schools could be better supported through access to the spaces and resources available to public schools.

At the local level, as outlined in sections 4.4.1.3 and 4.4.1.4, the language support offered by Scottish public service providers could be improved by greater cooperation between services, which would allow for the sharing of resources in order to facilitate the expansion of provision, the promotion of good practice and the development of consistent and overarching standards and strategies in the domain of interpreting and translation in the

public sector.

5.3 Scope for further research

This thesis focused on specific areas of multilingual service provision in the public sector in order to gain an insight into how service providers approach and manage the language needs of the populations within their remits. It is also important to recognise, however, that, due to the time and resource constraints, this research necessarily selected certain focal points (the research setting, for example, and the service providers to which Chapter Four relates) and that future research could make different choices, which would contribute further perspectives to the evaluation of language and inclusion in public services, in Scotland, the UK or, indeed, further afield.

Beginning then, with the research setting, it should be noted that the analysis of language provision in the public sector would be relevant not just in other areas of Scotland, but additionally in other parts of the UK and in other countries around the world. While there may be contextual differences between geographical research settings, themes of equality and inclusion would remain pertinent, as would findings concerning the reality of provision at the local level. Research that explored other UK cities with similar demographics – or, indeed, with notably different linguistic compositions – could offer interesting results that may comprise a comparative setting or may contribute a different perspective on the issues engaged by this project. Furthermore, while the focus of this thesis is allochthonous languages, there is certainly scope for evaluations of autochthonous language provision in the public sector: communication support for BSL users and the nature of the *BSL Act*'s implementation, for example, could be valuable.

As was mentioned in section 2.2.2 as part of the methodological evaluation of the research design, this thesis focused on service providers themselves, evaluating the frameworks within which service delivery occurs and additionally carrying out interviews with managers and members of staff from the public services included in the study, rather than on the experiences of service users. This was a necessary methodological choice because it was not feasible to include both service providers and service users in the research, particularly

given the significant amount of fieldwork and the resources that would be required for such research with service users. It also arguably represents a limitation of this research, however, and it should be acknowledged that future research exploring service users' perspectives on language provision in any of the public services addressed here, or, indeed, across services, would be of great value. Research that focused on gathering service users' feedback and charting their experiences of language support in the public sector would be a useful evaluation of the strategies discussed in the body of this thesis. Indeed, this would be one way to investigate whether service providers are implementing the equalities policies that they have developed and whether their claims regarding provision are sustained in practice. Specific issues raised in section 4.4.1.3, such as the degree of awareness among services users regarding their entitlement to language support and their experiences with accessing such support, and the preferences of service users with regard to the source of interpreting support, could also be explored.

Furthermore, there is scope to expand on the discussion of education policy and provision that was included in Chapters Three and Four. There is a great deal of potential for further research focused specifically on language education in Scotland, which is the reason why sections 3.5.2, 4.2.5.1 to 4.2.5.3, 4.3.4, 4.3.4.1 and 4.3.4.2 consider education services and their approach to both language support for allochthonous language speaking pupils and language teaching more widely. This thesis considered both EAL provision and language teaching in Scottish public schools, in addition to addressing the work of complementary schools with regard to allochthonous language education. More in-depth research focused on those aspects of language education would offer an interesting insight into the role of allochthonous languages in Scottish schools and, in the case of complementary schools, outside of mainstream education. Possible topics for such research might include provision for allochthonous languages in early years education; the development of allochthonous language skills (particularly skills in those languages spoken in the school community) in primary schools, in line with the Scottish Government's (2012b) 1+2 Approach, and also at the post-primary stage, for both allochthonous language speakers and non-speakers; linguistic education provided by complementary schools, any existing and potential links between complementary and public schools, and existing or potential state support for complementary schools. Future research on such topics would contribute to the growing

body of valuable work considering language teaching and complementary school provision, alongside, for example, Creese (2010), Hancock (2008, 2012, 2014a, 2014b; Hancock and Hancock, 2018), McFarlane (2018), McPake (2006; McPake et al, 2007, 2008) and Wei (2006, 2018).

This thesis evaluates language provision across the Scottish public sector, with specific focus on selected service providers, in order to clarify existing support for allochthonous language speakers and identify potential areas for service development. Future studies in any of the above research areas would expand the scholarly literature in the field of language policy and planning by furthering understandings of the practical implementation of equalities obligations at the local level with regard to language and of service providers' responses to the increasing linguistic diversity of the populations they serve.

5.4 Conclusion

This research illustrates that public service providers in Scotland have developed language provision aimed at meeting the language needs of their service users and are adapting to shifts in these needs over time, in the context of increasing linguistic diversity in Scotland. Preceding chapters contextualise the research setting and outline both the research methodology and findings, concluding that notable language support, largely in the form of interpreting and translation services, but additionally through EAL provision in mainstream education, exists in the public services that were evaluated, with related strategy and guidance documents published by public bodies across sectors. Service providers tended to view communication support for allochthonous language speakers as an element of their equalities obligations, in many cases citing the *Equality Act 2010*, either explicitly or implicitly, despite the absence of explicit protection for language under that law. Provision could be significantly developed, however, in order to enable equal access to services for allochthonous language speakers and, more widely, to challenge negative perceptions of language diversity and promote greater socioeconomic inclusion.

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Appendix: interview schedules.

Interview schedule: Depute Head Teacher, Additional Support for Learning Service (ASLS), City of Edinburgh Council (CEC).

1. Do you have any initial comments or thoughts about the EAL service that you'd like to share?
2. Could you please describe the structure of the EAL service a bit? How it works within the ASL service?
 - a. Can you tell me a bit about the languages covered by the service: the most frequently required languages and how this may change over time?
 - b. How does the support provided by EAL teachers work in practice?
3. Are there any processes in place to record or track the languages required by pupils?
 - a. If so, does this help in planning/delivering the EAL provision?
 - b. Are there any other data sources that influence planning/delivery? (E.g. enrolment information, demographic data.)
4. Do you have any direct contact with pupils' families?
 - a. If so, do you have any comments about this? What is your experience of the attitudes of families and their feelings about their child's language proficiency/home language/the EAL service?
5. How do you find working with schools? Does there tend to be positive engagement?
6. Are EAL staff members trained about/aware of legal and policy obligations?
 - a. Are there particular policy or standards or guidance documents (either international, national or local) that are relevant or useful to the EAL service?
 - b. Are these things that schools tend to be aware of, or do they tend to be primarily responding to the practical needs of pupils?
7. Have there been any funding changes recently? If so, how has this affected service delivery?
8. Do schools with particularly high demand receive extra support from the EAL service?
9. Are there any other practical or resource-related challenges?

Interview schedule: Interpretation and Translation Service (ITS) Manager, City of Edinburgh Council (CEC).

1. Do you have any initial comments or thoughts about the ITS that you'd like to share?
2. Could you please tell me a bit about the CEC departments that most frequently require the support of ITS?
 - a. In your email you mentioned NHS Lothian, which I understand will no longer apply, maternity services, homelessness and social work. Have these been the services with which ITS most often works?
 - b. During interviews with members of staff from EAL services, I was told that the ITS works with schools as well, for instance in meetings with parents?
3. Could you talk a little bit about the previous work with NHS Lothian? How long had ITS been providing services within NHS Lothian, and what challenges were faced in doing so?
4. How do you find working with CEC services and departments? Does there tend to be positive engagement with ITS and with the language needs of service users?
5. Are there particular policy or standards or guidance documents (either international, national or local) that are particularly relevant or useful to the ITS service?
 - a. Are ITS staff members trained about/aware of these legal and policy obligations?
6. You mentioned that the service faces a significant challenge in terms of insufficient numbers of trained linguists and the necessity of relying on external services, which often do not provide experienced/trained linguists.
 - a. Has there been any increase in service demand in recent years?
 - b. In light of budget restrictions for local authorities, have there been any funding changes for ITS recently? If so, how has this affected service delivery?
 - c. If so, has the service's delivery approach changed? E.g. has the reliance on external services increased?
7. Are there any other practical or resource-related challenges, or any other issues that you would like to mention?

Interview schedule: Jaouen, D. Interpretation and Translation Service Manager, NHS Lothian.

1. Do you have any initial comments or thoughts about the service that you'd like to share? An overview of service demand, challenges faced, recent developments etc.?
2. Could you please tell me a bit about how the interpreting service works in more detail? And about the recent development of the in-house service?
 - a. How do referrals come through to the service?
 - b. Is the interpreting service the only source of interpreting for NHS Lothian?
 - i. Or are other sources such as LanguageLine used as well?
 - ii. Does the service also use external interpreting agencies or organisations?
 - iii. Although it is not advised policy, are there situations in which bilingual NHS Lothian staff members, or patients' family members, are required to interpret for patients?
 1. If so, does this have any impact on service delivery?
3. Which languages are covered by the service?
 - a. Which are the most frequently required languages?
 - b. Do these languages change over time?
 - i. Has there been any increase in service demand in recent years?
 - c. Approximately how many interpreters work for the service?
4. Are there any processes in place to record or track the languages required by patients?
 - a. If so, does this help in planning/delivering the interpreting provision?
5. Are there any particular challenges faced in providing the service?
 - a. E.g. funding constraints, numbers of interpreters, short notice nature of requests for interpreters?
6. Are there particular international or national UK policy or standards that are particularly relevant or useful to the interpreting service?
 - a. Are staff members trained about/aware of these legal and policy obligations?
7. Are there particular local NHS Lothian policy, guideline or strategy documents that I should be aware of, other than *Interpreting and Translation in NHS Lothian: Policy for Meeting the Needs of People with Limited English Proficiency*?
 - a. Are NHS Lothian staff members trained about/aware of these policies and protocols?
8. In light of budget restrictions for NHS services, have there been any funding changes for the interpreting service recently? If so, how has this affected service delivery?

- a. If so, has the service's delivery approach changed? E.g. has the reliance on external services increased?
9. Are there any other practical or resource-related challenges, or any other issues that you would like to mention?

Interview schedule: Operations Manager, Glasgow City Council (GCC) Linguistics service.

1. Do you have any initial comments or thoughts about the interpreting and translation work delivered for GCC that you'd like to share? Could you perhaps tell me a bit about how the service delivery works?
 - a. Are interpreters/translators employed directly, or do they work freelance, or do you use external agencies?
 - i. If one of the first two options applies, how many do you employ, and are there any circumstances in which agencies would be used, for example in times of high demand?
 - b. It would also be useful to know a bit about the transition from the delivery of interpreting and translation services for GCC by Cordia Linguistics to the Linguistics service that is now managed by the Glasgow City Health and Social Care Partnership, as the Cordia brand name has transferred to GCC.
2. Could you please tell me a bit about the GCC departments or services that most frequently request linguistic support?
3. Has there been any increase in service demand in recent years?
4. Which languages have been the most frequently required recently?
 - a. Has this/does this change over time?
 - b. Are the requested languages recorded and language needs over time noted?
 - c. Would it be possible to see any of this information?
5. Do other GCC departments tend to engage positively with, and to be knowledgeable about, the language needs of service users and the Linguistics service itself?
6. Does the Linguistics service have access to sufficient numbers of trained interpreters? Are the interpreters required to hold particular qualifications, such as the Diploma in Public Service Interpreting (DPSI)?
 - a. Is there any support in place for interpreters who may encounter challenging situations during service delivery (for instance: emotionally difficult issues around social services or social care)?
7. Are there particular policy or standards or guidance documents (either international, national or local) that are particularly relevant or useful to the interpreting and translation services?
 - a. Is in-house or external training provided for interpreters and translators? Relating either to skills relevant to their work, or awareness of equalities obligations, relevant legislation or GCC strategy/guidance?

8. Do you have any insight into the funding for the delivery of interpreting services to GCC? If so:
 - a. In light of budget restrictions for local authorities, have there been any funding changes for the interpreting services? If so, has this affected service delivery?
 - i. If so, how?
9. Are there any other practical or resource-related challenges encountered, or any other issues that you would like to mention?
10. Are any attitudinal issues encountered during service delivery, for example in terms of attitudes towards languages other than English, or their speakers?

Interview schedule: Scott, S. English as an additional language (EAL) teacher, City of Edinburgh Council (CEC).

1. Do you have any initial comments or thoughts about the EAL service or your experience as an EAL teacher that you'd like to share?
2. How long have you worked for the Edinburgh EAL service, and which languages do you support pupils with?
3. Can you tell me a bit about the service and how it works?
 - a. I'd be interested to know about the languages covered by the service; the most frequently required languages and how this may change over time.
 - b. How does the support provided by EAL teachers work in practice? What is your approach in the classroom? How closely do you work with the pupils you support?
4. Are there any processes in place to record or track the languages required by pupils?
 - a. If so, does this help in planning/delivering the EAL provision?
 - b. Are there any other data sources that influence planning/delivery? (E.g. demographic data.)
5. Do you have any direct contact with pupils' families?
 - a. If so, do you have any comments about this? What is your experience of the attitudes of families and their feelings about their child's language proficiency/home language/the EAL service?
6. How do you find working with schools? Does there tend to be positive engagement?
7. Are EAL teachers trained about/aware of legal and policy obligations?
 - a. Are there particular policy or standards or guidance documents (either international, national or local) that are relevant or useful to your work as an EAL teacher?
 - b. Are these things that schools tend to be aware of, or do they tend to be primarily responding to the practical needs of pupils?
8. Have there been any funding changes recently? If so, how has this affected service delivery?
 - a. Has the service's delivery approach changed?
9. Do schools with particularly high demand receive extra support from the EAL service?
10. Are there any other practical or resource-related challenges?

Interview schedule: Stewart, A. Team Lead, NHS GGC interpreting service.

1. Do you have any initial comments or thoughts about the interpreting service that you'd like to share? An overview of service demand, challenges faced, recent developments etc.?
2. Could you please tell me a bit about how the interpreting service works in more detail?
 - a. How do referrals come through to the service?
 - b. Is the interpreting service the only source of interpreting for NHS services?
 - i. Or are other sources such as Language Line used as well?
 - ii. Does the service also use external interpreting agencies or organisations?
 - iii. Although it is not advised policy, are there situations in which bilingual NHS staff members, or patients' family members, are required to interpret for patients?
 1. If so, does this have any impact on service delivery?
 - c. Which languages are covered by the service?
 - d. Which are the most frequently required languages?
 - e. Do these languages change over time?
 - i. Has there been any increase in service demand in recent years?
 - f. Approximately how many interpreters work for the service?
3. Are there any processes in place to record or track the languages required by patients?
 - a. If so, does this help in planning/delivering the interpreting provision?
4. Are there any particular challenges faced in providing the service?
 - a. E.g. funding constraints, numbers of interpreters, short notice nature of requests for interpreters?
5. NHS GGC's Corporate Inequalities Team published: *Meeting the Requirements of Equality Legislation: A Fairer NHS Greater Glasgow & Clyde 2016-2020*, which highlighted that there is often a lack of awareness of certain services (e.g. out-of-hours and emergency care, mental health services and support for gender based violence) and of the right to have an interpreter among refugees and asylum seekers.
 - a. How is information about the interpreting service distributed?
 - b. Have there been challenges faced in this regard?
6. Are there particular international or national UK policy or standards that are particularly relevant or useful to the interpreting service?
 - a. Are staff members trained about/aware of these legal and policy obligations?

7. Are there particular local, GGC NHS policy, guideline or strategy documents that I should be aware of, other than the *Spoken Language, British Sign Language and Communication Support Interpreting Policy*, *The Equality Act 2010: A Guide for Managers in NHS Greater Glasgow & Clyde* and the *Accessible Information and Interpreting* protocols?
 - a. Are NHS staff members trained about/aware of these policies and protocols?
8. In light of budget restrictions for NHS services, have there been any funding changes for the interpreting service recently? If so, how has this affected service delivery?
 - a. If so, has the service's delivery approach changed? E.g. has the reliance on external services increased?
9. Are there any other practical or resource-related challenges, or any other issues that you would like to mention?

Interview schedule: Walker, M. Head of Service, English as an Additional Language (EAL) Service, Glasgow City Council (GCC).

1. Do you have any initial comments or thoughts about the EAL service or your experience there that you'd like to share?
2. Could you please describe the structure of the EAL service a bit and give some detail about how it works in practice?
3. Do you know which languages are most frequently needed by pupils being supported by the service?
4. Are there any noticeable trends in language demand?
 - a. Any noticeable shifts over time?
 - b. Has there been any increase in demand in recent years?
5. Are there any processes in place to record or track the languages required by pupils?
 - a. If so, does this help in planning/delivering the EAL provision?
 - b. Are there any other data sources that influence planning/delivery? (E.g. enrolment information, demographic data.)
6. Does the service have any direct contact with pupils' families?
 - a. If so, do you have any comments about this? What is your experience of the attitudes of families and their feelings about their child's language proficiency/home language/the EAL service?
7. How do you find working with schools? Does there tend to be positive engagement?
8. Are EAL staff members trained about/aware of legal and policy obligations?
 - a. Are there particular policy or standards or guidance documents (either international, national or local) that are relevant or useful to the EAL service?
 - b. Are these things that schools tend to be aware of, or do they tend to be primarily responding to the practical needs of pupils?
9. Have there been any funding changes recently? If so, how has this affected service delivery?
10. Do schools with particularly high demand receive extra support from the EAL service?
11. Are there any other practical or resource-related challenges?

Interview schedule: Zduniak, K., Equality and Diversity Manager, Scottish Courts and Tribunals Service (SCTS).

1. Do you have any initial comments or thoughts about the SCTS interpreting provision that you'd like to share?
2. Could you please describe the structure of the service a bit and give some detail about how it works?
 - a. Does the SCTS have an in-house interpreting service? How is interpreting provided?
 - b. Are other sources of language support, such as LanguageLine, used as well?
 - c. Does the service also use external interpreting agencies or organisations?
3. Do you know which languages are most frequently required by those being supported by the service?
4. Are there any noticeable trends in language demand?
 - a. Any noticeable shifts over time?
 - b. Has there been any increase in demand in recent years?
 - c. Are there any processes in place to record or track the languages required?
5. How do you interpreters tend to work alongside other justice system employees and in courts? Does there tend to be positive engagement?
6. Are interpreters trained about/aware of legal and policy obligations?
 - a. Are there particular policy or standards or guidance documents (either international, national or local) that are relevant or useful to the EAL service?
 - b. Are these things that schools tend to be aware of, or do they tend to be primarily responding to the practical needs of pupils?
7. Have there been any funding changes recently? If so, how has this affected service delivery?
8. Are there any other practical or resource-related challenges?